CORRUPTION IN SERBIA FIVE YEARS LATER

Center for Liberal-Democratic Studies

Boris Begović and Boško Mijatović (editors)
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1. Begović Boris [autor]
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Boris Begović
Jovan Jovanović
Boško Mijatović
Marko Paunović
Mirjana Vasović
Slobodan Vuković

Belgrade, 2007

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Contents

Foreword

The study that is before the readers presents a continuation of the research of corruption in Serbia which the Center for Liberal-Democratic Studies has been conducting for years. The first study in the series was *Corruption in Serbia* (2001), which received the **International Memorial Award Sir Anthony Fisher** for 2002. This study was considered by many to be the first real research of corruption in our country and brought a comprehensive and coherent proposal of anti-corruption strategy, which was later included in the government arsenal. It was followed by the books entitled *Corruption in the Customs* (2002) and *Corruption in the Judiciary* (2004), which analyzed, in the same spirit, the level, mechanisms and consequences of corruption in these areas greatly threatened by corruption and proposed a set of anti-corruption measures.

This study contains an analysis of the changes in the corruption level and effects of government policies during the five years of transition in Serbia, i.e. after the October changes. Hence, the idea was to look at the dynamics of corruption and anti-corruption efforts in this period and assess the successfulness of the measures undertaken. The study has shown that corruption was reduced significantly in 2006 relative to 2001, but also that the positive change is not at the level of expectations among the people and political promises. Corruption is still a widespread and dangerous phenomenon in Serbia. The study has also shown that that the government anti-corruption activities were mostly normative, i.e. legislative, with weaker practical work of the government bodies. For that reason, in the following period the focus of anti-corruption efforts should be shifted to the strengthening of anti-corruption mechanisms in the police, prosecutor's offices and courts, as its main operative proponents.

The authors of individual chapters are as follows: the author of the first is Bosko Mijatović, the second Mirjana Vasović, the third Slobodan Vuković, the fourth Boris Begović, Jovan Jovanović and Marko Paunović, the fifth Marko Paunović, the sixth Boris Begović and the seventh Bosko Mijatović.

11 September 2007

Boris Begović
Boško Mijatović

I Politics and Corruption in Serbia

There is no doubt that corruption is widespread in the modern world, in particular in the undeveloped and developing countries. There is no doubt either that is exists in Serbia as well, to a significant degree, as demonstrated both by numerous studies and occasional arrests.

This corruption had its dynamics in Serbia, with roots in the 1990s and arduous, not particularly successful struggle during the 2000s. This introductory section will deal with the global characteristics of the attitude of government towards corruption.

CIRCUMSTANCES DURING THE 1990s

The foundations of present corruption in Serbia were places in the 1990s. That was the time of the crumbling of the old communist regime, in which corruption was still a rare phenomenon and of creation of a new one, in which old moral values were disappearing and new ones were arising.

Namely, until the early 1990s fairly rigid communist morals prevailed, under which amassing wealth was not an accepted policy, so even the communist leaders did not possess any significant property, living instead on their wages, residing in government flats and houses and driving government cars. The year 1990 brought a change: introduction of the multiparty system and legalization of the private sector led to a change in the mindset of the political-economic elite. Now power has ceased to be a permanent privilege, becoming instead dependent on election results; then, amassing wealth became a permitted and desirable goal of the individual, even the one in power. Thus, the race for wealth began, with the abuse of the state as an important element.

A good illustration of the state of mind at that time is related to the economic sanctions against the FR Yugoslavia in 1992. Allegedly because of the responsibility of the FR Yugoslavia for the war for Yugoslav heritage, economic sanctions were imposed against the FRY (SC Resolution 757), which were to sever foreign trade and financial flows with the world, thus forcing the then regime to yield. And what was the reaction of the authorities? Instead of opting for a completely liberalized imports regime, in order to foster imports of all types of goods and alleviate the effects of the sanctions, the authorities introduced a system of imports

licenses and quotas, which brought enormous wealth to those fortunate enough to get the imports licenses. Needless to say, it was practically only the members of the ruling regime who were granted the licenses. The overall effect: lower imports, implying lower production and supply of the market with consumer goods, with greater profit for the favorites of the regime.

Such a derogation of all and not only communist moral norms was not exclusively a consequence of internal political transition towards democracy and private property, but also of economic and political crisis that arose in Serbia. Namely, the breakup of the SFRY led to wars, the already mentioned sanctions, decrease in wages and production, inadequate market supply levels, flourishing of the gray economy, criminalization of economic life and society as a whole and similar. The formal sector of the economy was falling apart, while the government tolerated any form of coping, both with regard to all population strata and the economy itself.

It would not be incorrect to say that a complete legal anomy, i.e. lawlessness, prevailed in Serbia at that time, so chaos in all areas of life was the expected consequence. Practically no one obeyed the laws, partly because they were unimplementable and because an attempt to enforce them would have brought the economic and social life to a halt, and partly because in such a way individuals from the ruling regime were privileged at the expense of all others. This resulted in a situation in which nothing was safe, in which any type of coping with the situation was the only principle. All moral breaks disappeared and taxes were not paid, contracts were not honored (including non-payment of debts), the government was used as an instrument for amassing wealth, many people did not live from their work and entrepreneurship, but as parasites, at the expense of someone else. Corruption also presented an element of the situation at that time which fit in well with the others.

The population became accustomed to a large degree to the state of affairs and began to perceive the criminal phenomena of the time as natural, as those that were not subjected to moral condemnation because it was the only way to cope. Corruption was also predominantly seen as a practical method to get a job done in a desirable manner in all that chaos, and not as a phenomenon to be condemned. Naturally, corruption became very much widespread.[1]

ENTHUSIASM AFTER OCTOBER 5

After the political reversal of October 5, 2000, democratic forces came into power, having criticized the corruption of the Milošević's regime and promising its eradication. Thus, the new Prime Minister Zoran Đinđić mentioned in his inaugural speech in the Serbian Assembly in

1 See in more detail: *Corruption in Serbia*, CLDS, 2001

January 2001 determined fight against corruption as one of the priorities of his government.

It was, indeed, a favorable moment for proper anti-corruption efforts, since there was practically no opposition. Large participants in corrupt activities did not present danger at that time: those that had become rich in the previous period no longer had political backing and could have been tried so that they could serve as an example to all others, while among the new authorities there were still no major beneficiaries of government privileges. Even more importantly, after coming into power, the revolutionary morals were prevalent in the ruling DOS, i.e. desire to rule honestly for the benefit of the people, without abusing the state for private ends. Any anti-corruption measure would have then been adopted by the assembly, because there was no one to oppose it.

So the Government of Prime Minister Đinđić started building the anti-corruption structure in Serbia. Mobile anti-corruption teams were established, the Anti-corruption Council was formed, the improvement of legislation in the anti-corruption direction was initiated… However, an important mistake was made, which, in retrospect, significantly undermined the initial efforts. It is the extra profit tax law.

A question that the new authorities faced was what to do with those who had made a fortune during the 1990s, mostly by abusing the state, i.e. through corruption. The taxation concept was selected, rejecting the alternative concept – the one with individual investigations of legality of business operations of well-known tycoons. The latter can partially be justified by the fact that a good portion of their earnings was formally legal – obtaining from the government the right to purchase cheap foreign currency, loans with negative real interest rate or imports licenses – as well as the lack of confidence in the ability of the police and judiciary at the time to conduct fair investigations, since their ranks had not been cleansed. In any case, in 2001 the so-called extra profit tax was introduced, making actual, if not formal peace between the business community from the time of the previous regime and the new government. The DOS authorities presented this tax as a moral move aimed at achieving social justice, since it was to be paid by those who had abused their ties with the previous regime and become rich in a dishonest manner. There were significant difficulties in the course of implementation, which is inevitable in such a tax, so many avoided its effects to a greater or lesser degree. Even more importantly, the extra profit tax practically legalized riches acquired through corruption during the previous decade, because – when a tax is paid on suspicious earnings, then such earnings can no longer be considered doubtful or suspicious, nor can proceedings be reinitiated against their owner. Indeed, there were no further investigations of the (il)legality of wealth acquisition from the 1990s.[2] Therefore,

[2] Things might be changing: in June 2007 a group headed by a big tycoon (Cane Subotić) was arrested, having allegedly smuggled cigarettes into Serbia with partial cooperation of the government during the 1990s.

the extra profit tax practically laundered suspicious money in Serbia at a stroke, sending quite an undesirable signal to all potential participants in corrupt practices that the new authorities are not as tough as they claim to be.

Apart from the legislative measures, the Government of Zoran Đinđić initiated a broad reform of the economic system: from a grotesque market system with a domination of administrative-command levers in the hands of the cleptocratic state from the 1990s to standard capitalist system. Numerous laws and mechanisms abolishing the market and bringing fortune to some were done away with. The 2001 legalization and normalization of the market for foreign currency, cigarettes and petrol are also worth mentioning at this point. Until then these markets were dominated by street sales, with enormous profits for the main suppliers and losses for the coffers of both the government and consumers.

Foreign trade liberalization should also be mentioned, abolishing a number of administrative imports restrictions, whose only purpose was to be a tool for increasing wealth of the persons with ties to the authorities. Namely, the previous system was mostly based on the system of licenses and quotas obtained, often by splitting profits with the benefactors, by the businessmen of the ruling regime.

Generally speaking, economic reform aimed at strengthening the influence of the market as an impersonal mechanism of economic activity coordination, rooted out corruption through a significant reduction of activities that required discretionary approval of government and similar officials. Simply put, the role of the state in economic life was significantly reduced and is still being reduced, so there is reduced corruption potential in the economic sphere.

BRAKES

The development of political circumstances in Serbia during the past years certainly did not facilitate the fight against corruption. Serbia was all the time burdened with different substantive problems, even related to pure survival, which took up a significant portion of political energy, weakening the efforts towards the fight against corruption.

The first element in terms of importance is the fierce political fight raging almost all the time in the political scene of Serbia. The first period from 2001 to 2003 was marked by the conflict between the two democratic block leaders – the then Prime Minister of Serbia, Zoran Đinđić, and the then President of the FR Yugoslavia, Vojislav Kostunica. The conflict escalated to such a degree that in 2002 the Đinđić's majority expelled from the Serbian Assembly all DSS deputies, but the Assembly did not continue its activities, awaiting instead the (negative) decision of the Constitutional Court. However, this waiting was protracted, so the Assembly did not work for almost a

year, which certainly implied a suspension of legislative activities, inter alia, related to the corruption issue.

Similarly, another year that was practically lost was 2003, when Prime Minister Đinđić was assassinated, several months of state of emergency organized, ending in the government falling in the Assembly. Although the so-called Action Sabre was organized in a spectacular manner, as an alleged attempt to deal with crime in Serbia, in the end it came to nothing and, except for rare exceptions, thousands of those arrested were released. The Assembly was not in session, except towards the end of the year when the government no longer had the parliamentary majority.

The next problem constantly destabilizing the political scene in Serbia and making the normal operation of the government more difficult was the issue of cooperation with the Hague Tribunal. Soon after the establishment of the democratic regime at the beginning of 2001, requests started arriving from the Hague Tribunal, supported by the leading Western countries, to start extraditing the indictees for crimes during the previous wars. Prime Minister Đinđić bravely delivered Slobodan Milošević, but that was just the beginning. Since the Hague Tribunal is a very unpopular institution in Serbia, as the majority of citizens do not believe in its impartiality, cooperation (i.e. delivery of the indictees) is not easy for any of the Serbian governments, because each government must and does think about the consequences of cooperation with the Hague Tribunal on its own political rating and prospects in the next elections. For that reasons this process has been very lengthy, passing the entire time through cycles – alternate pressure increases and decreases, on the one hand, and delivery and delivery suspensions, on the other. The key figures – Ratko Mladic and Radovan Karadzic – are still at large, which means that the game continues.

In the entire period under observation Serbia was also burdened by the problem of state borders. Namely, since the October changes, in fact even earlier, until today there has been an issue of the state we live in: is it Yugoslavia and, if so, what kind, or is it Serbia and, if so, with which borders? Both governments of Serbia were engaged in this continued struggle for the Yugoslav heritage, this time in the territories deemed Serbian. Đinđić, although more flexible than Kostunica, came on the verge of conflict with the Western diplomacy with regard to Kosovo and Metohia, whereas regarding the Montenegrin issue he was still positively disposed towards the Montenegrin President Đukanović. Kostunica was in the end left with both of these issues, which significantly affected his engagement as the Prime Minister: in fact, he considered those two state issues to be the key issues, so he dedicated most of his attention to them.

Apart from these urgent issues from the realm of high-level politics, the government authorities all the time faced the obligation to implement deep socioeconomic reforms within transition, which put additional strain on the government capacities.

The fact that the state leadership was burdened with important political and reform activities would certainly not have to interfere with anti-corruption efforts, but could develop in parallel. However, the government administration in Serbia has fairly limited capacities, which is caused by several reasons: departure of part of capable civil servants after the fall of the Milošević's regime; very low salaries in the 2001-2004 period, so again many capable people went to the private sector; changing of high officials (usually deputy ministers and department heads) after each change of the government, etc. Similar thing happened with the police, reducing its efficiency.

ELECTORAL SYSTEM, COALITION GOVERNMENT MODEL AND CORRUPTION

So far we have considered current changes in the political situation in Serbia and tried to identify their effects on corruption and fight against corruption. Further in the text we shall attempt to examine certain characteristics of the country's political system and their effect on corruption.

Let us begin with the electoral system. In Serbia the proportionate electoral system is in force, with the parliamentary mandates distributed to the party lists according to the number of votes in the Republic. There are certainly reasons justifying the existence of this system, since, inter alia, it enables better parliamentary representation of small parties and political, social, ethnic and other minorities. Naturally, it has its weaknesses as well, one of the most important being the fact that it leads to the fragmentation of the Assembly to a large or larger number of parties. This advantage and this disadvantage of the proportionate system are in fact two sides of the same coin: good representation of minority opinions signifies a larger number of small parties in the Assembly relative to the competing, majority system.

This segmentation of the Assembly presents a barrier to the creation of a homogeneous, efficient government. The existence of a number of small or medium-sized parties inevitably leads to the necessity of creation of broader coalitions in the course of government formation, which can hardly be efficient since their interests and ideologies, when they have them, are different, making successful cooperation more difficult.

That was the case in Serbia as well. The first governments of both Đinđić and Kostunica were coalition governments, with very diversified composition. When it was formed, the Đinđić's government consisted of as many as eighteen parties, admittedly joined at first by common revolutionary zeal. However, conflicts soon followed, so 18 came down to 17 (DSS left), with cracks appearing between the remaining parties as well. The problem was also aggravated by the fact that the smaller coalition parties realized that they could tip the scale and that

without their votes the government could not have a majority, so they started putting pressure of the Prime Minister and other coalition parties, occasionally giving proper ultimatums in order to vote for the government proposals. One of such disputes – SDP vs. Prime Minister Živković – caused the government to fall at the end of 2003, because SPD had already found a new coalition partner.

Such a situation, when practically each coalition member has casting votes, i.e. when the survival of the government in the Assembly depends on each coalition member, is certainly not conducive to anti-corruption efforts. What is easily resolved and performed in a homogenous, one-party government – dismissal of a suspicious minister – proves to be impossible or difficult in broad coalitions, since a party usually sides with its member and defends him with all its might, until the issue becomes quite clear and public. Such a fairly protected position not only of ministers, but also of other senior government officials, not only makes the fight against corruption more difficult, but it also directly encourages all those occupying public positions to take part in it. Namely, when a corrupt individual is to a significant extent protected by a political shield, than it is certain that, in line with the Becker's calculation about the ratio between the corruption benefits and potential penalty, he is much more motivated to engage in illicit activities.

It was not different at the time of the first Kostunica's government in 2004-2007. It was even a minority government, depending on the external support of SPS in the Assembly, so again each of the four parties of the ruling coalition had a right of effective veto. As in other similar situations, it could be heard from the reliable sources that the Prime Minister had thick files on the leading ministers from the coalition parties and that he used them rationally in intergovernmental bargaining, but none of it come out in the public or reached the law enforcement bodies.

Therefore, the electoral system affects the level of corruption and ability of the executive power to face it. From the point of view of corruption reduction it would be better to transfer to the majority electoral system and in time reach a two- or three-party system, which most commonly provides homogeneous governments, capable of fighting corruption within the executive power.

Apart from the weaknesses stemming from the coalition character of the governments, it is also necessary to analyze an apparently technical issue, but which has impact on corruption and fight against it. Namely, when each of the previously mentioned governments was formed, the following question was asked: will each party-coalition partner take over a certain number of ministries (or public enterprises, institutions, etc.) and manage them by itself (minister, deputy and assistants from the same party) or will each ministry be under the joint administration of several parties (minister from one party, deputy minister from another, etc.)?

On the one hand, the model of complete control is usually justified by its advocates as more favorable for efficient management of affairs,

on the basis of single ideology and facilitated mutual communication and cooperation within the management team since they all come from the same party. On the other hand, it is claimed that the model of joint administration may lead to difficulties in the operation of ministries due to discrepant conceptual issues, mutual competitive relations between the leading persons, etc.

From the point of view of corruption, however, the two previously mentioned models look different. The model of complete control enables the management of affairs completely in the interest of the party or group, where one group of mutually connected people (coming from one political party) is directly monitored by no one.[3] Therefore, this group can freely engage in corruption in personal or party interest, without much fear from internal supervision by coalition partners. Indeed, the division of ministries among parties according to the complete control principle seems in advance like a division of spoils between the ruling coalition parties and such a coalition agreement whose purpose is precisely the non-interference of one party into the affairs of other parties.

On the other hand, the model of joint administration at least partially makes corruption more difficult, because the ministry (or public enterprise, etc.) is led at the beginning by a diverse team, coming from different parties and having different political interests, whose members usually do not know each other or are mere acquaintances. So there is less likelihood of corruption conspiracy between the leading persons in this model than in the model of complete control. Admittedly, it is not impossible, as demonstrated by limited anecdotal evidence.

In Serbia the model of joint administration was implemented during the Đinđić's government, whereas the model of complete control was dominant during the first Kostunica's government.

IMPETUS TO FIGHT AGAINST CORRUPTION

Despite aggravating circumstances, mentioned in the previous sections, fight against corruption in Serbia was not completely neglected in the previous years either. When the original zeal of political leaders waned, other factors provided impetus – those from the political environment. The attitude towards corruption among politicians certainly belongs to their public sphere of activity and they are not indifferent to how the electorate and other political factors perceive them.

Two basic factors that the politicians paid particular attention to since 2001 are the public opinion and external pressure. Both needed to be satisfied, since they asked for action and results. The domestic public certainly directed the disposition to the electorate and the government

[3] Naturally, the public and law enforcement bodies are there to provide final supervision, but their efficiency in Serbia, at least so far, has been insufficient.

was interested in its disposition, trying to present its actions in the best possible light. Moreover, the integration of Serbia into the world flows after October 5 also implied anti-corruption activities, since this topic is very popular in the modern world and a broad anti-corruption campaign is waged at the global level, led by the most developed countries and numerous political and financial international organizations.

The three main directions of activity of political circles in the fight against corruption during the previous years in Serbia were the following: legislative reform, adoption of the national anti-corruption strategy and certain concrete activities.

The legislative reform was to set up a favorable legal framework for hampering corruption and facilitating fight against it. In the previous period corruption practically completely fell under the general legislation, whereas during the 2000s an orientation towards the specification of corrupt act incrimination and development of specific legislation dealing with it was adopted. As part of such a policy, several special laws were passed and certain existing general laws were amended. In such a way the legislative reform was almost completed and a base created for more successful fight against corruption, although certain weaknesses soon became evident in the course of implementation, requiring new legislative efforts towards the improvement of regulations.

Within the legislative reform several most important changes will be mentioned:

The Law on the Prevention of Conflict of Interest was adopted in 2004, aiming to make corruption significantly more difficult from the aspect of its supply; expectations from this law were large, but the results of its implementation so far are to a significant extent unsatisfactory; the procedural-administrative and penal part of the law proved to be inadequately regulated, so its implementation was not executed as planned;

The Law on the Financing of Political Parties was adopted in 2003; it is relatively well designed, but there are problems in its implementation: for example, political parties' reports on the financing of the preelection campaign from January 2007 are mostly incomplete and unsatisfactory, but without any particular consequences for those that submitted them,

The Law on Public Procurement was adopted in 2002, with significant amendments in 2004; the purpose of this law was to introduce transparency and competition in public procurement, which is certainly one of the most important potential areas of corruption; this aim has been achieved to a large degree, but procedural weaknesses have arisen: great complexity of the procedure, insufficient role of the Public Procurement Agency and Commission for the Protection of Rights, etc.,

Law on Civil Servants was adopted in 2005, aiming at the professionalization and depoliticization of the government administration, so civil servants' position relative to the previous provisions has been reinforced; the question is whether this reinforcement will reduce

corruption incentives or intensify them, since civil servants will feel more protected before their bosses and all others;

The Law on Government Auditing Institution was adopted in 2005, and was still not in force by mid-2007; one of the reasons, probably the main one, was the failure to find a competent candidate for the position of the President, since the planned salary is far below the auditor's salary in the private sector;

The Law on Ombudsman was adopted in 2005 and was to provide greater protection of the citizens' freedoms and rights before government officials, including corruption cases; the law was not in force by mid-2007, because only then was an ombudsman elected in the Serbian Assembly;

The new Criminal Code was adopted in 2005 and the new Law on Criminal Proceedings in 2006, which should, inter alia, assist in the fight against corruption; the Criminal Code provides for the criminal acts of giving and receiving bribes as an act against official duty of government officials.

A preliminary conclusion could be that the new legislation is conceptually mostly well regulated, but there are shortcomings in the procedural provisions, leading to pronounced weaknesses in their implementation. Among the planned anti-corruption laws, the law on anti-corruption agency, which is supposed to lead operationally the fight against corruption, has still not been adopted. There is a draft law, but it has not been adopted yet, although the agency is provided for in the Anti-corruption Strategy.

In the autumn of 2005 the Serbian Assembly adopted the National Anti-corruption Strategy. Its adoption resulted from significant efforts of foreign factors, i.e. international organizations, based on the belief that it would bring about a reversal in the fight against corruption. Experience has shown that the domestic public believes that for any important social issue it is good to adopt a strategy, which is certainly a disputable concept. In any case, the strategy has been adopted and in that way the Government met the expectations of two important political groups. And it remains to be seen how things will proceed from there. The likelihood of problems in implementation is demonstrated by the fact that the Government has not adopted the Action Plan for Strategy Implementation so far (July 2007), which it was obliged to do according to the Strategy.

There were fewer concrete anti-corruption actions than there should have been. In the following chapters we shall examine what has been done and whether that was a result of a lack of commitment on the part of the government, of certain political obligations towards the party (SPS) which supported the majority government or of some other reason.

II Public Perceptions of Corruption 2001–2006: Period Effect

INTRODUCTION

Corruption is not an excessively dynamic social phenomenon; its social specificities change slowly. There are several explanations for that. In stable societies, it is frequently a systemic phenomenon, integrated with the operation of the existing institutions. Sometimes it presents an integral part of moral folklore of a society, i.e. generally agreed norms of behavior; because of that neither its participants, nor external observers can easily distinguish it from customs and recognize it as social pathology. Since corruption is rooted in the very foundations of the culture and society, its tradition, changes in its scale (prevalence among the population), level and forms occur slowly, sometimes only with the changes of cultural patterns.

It makes sense to expect the periods of deep changes in the socio-economic system, such as the period of transition in the post-communist countries, to lead inevitably to changes in the characteristics of corruption existing in the society. Since transition, by definition, implies primarily reforms of the old system institutions, they would be expected to cause a reduction of its scale as well. However, institutional changes are a relatively slow process. Moreover, since transition reforms imply rapid privatization, they themselves can become the sources of some new forms of corruption. Apart from that, these times of upheaval are usually accompanied by a breakup of the prevailing value system and confrontation of old and new customs and moral systems, directing the behavior of the people. This state of anomy affects not only the degree of acceptance of moral norms, but also changes the advocated *type* of morality. This means that this is not just an issue of the change in moral standards (what is good and what is evil), but also of normative interpretation of individual and group behavior (what it means to be honest). Because of all this, efforts towards the establishment of democracy, rule of law and market economy in the transition postcommunist societies face, at the same time, institutional barriers and resistance creating an anomic society. Members of these societies, disorientated in terms of their values and morals, on the one hand, become more tolerant of previously proscribed forms of conduct, while, on the other, becoming

more inventive in finding new activities that could be useful in coping in the existing institutional and value vacuum. Corruption is one the highly practical methods they use to cope with the transition chaos, which is why it legally self-reproduces under such circumstances.

Any attempt to compare the perceptions and opinions of the Serbian public on corruption after only five years – in order to be able, at least indirectly, to draw conclusions on the current state of corruption in the society – must take into account the previously mentioned circumstances. Namely, such a study must proceed from quite moderate assumptions on the scope of changes that could have occurred in the meantime. Perceptions that people have on corruption are much more susceptible to fluctuations depending on the influence of the period, i.e. given social, economic and political situation, than the phenomenon itself. Since the concept of corruption is mostly related to the disfunctionality of the state and government, the picture the public has of it mostly depends on how the current political processes and their participants are perceived and assessed. Sometimes the general belief that the government is dishonest and corrupt presents one of the methods to express general dissatisfaction with the political and economic situation in the country, which is a regular phenomenon in transition. These perceptions, which are naturally subjective, can be additionally "colored" by various political animosities and resentments amidst general politicization of the society and general political segregation. It is in that light that uncritical assessments on the state of corruption in Serbia (characteristic not only of the period of the Milošević's regime, but also the period after the democratic changes) should be interpreted, often overestimating its scale and intensity, i.e. exaggerating the situation. Not only does Serbia rank among the countries with the highest degree of corruption in the world, but it is also claimed that it has infected the entire society, that all politicians are corrupt, etc. Depending on which social structures they originate from, these exaggerations present nothing but a product of disappointment in the new democratic government, pressure on the existing regime, or the manner to express resistance to changes of the political and economic system in general.

Taking all this into account, in an attempt to compare the perceptions and positions on corruption in Serbia in two different periods – directly after the political upheaval and five years later – the researchers could start from but a few general and limited hypotheses. One of them is that the changes in the degree of corruption prevalence in the society, and consequently corruption perceptions, in this period, can only be moderate. Also, that any changes in corruption perception are to a significant degree connected with some forms of group membership, affected themselves not only by socioeconomic position, but also by the dominant political affiliations of their members. Furthermore, that subjective assessments on corruption prevalence (thus the changes that can be determined) are more clearly crystallized when it comes to the

areas in which the reforms went furthest, precisely because they presented neuralgic spots of the previous and the present system as well. It can also be assumed that those social groups that exhibit a more critical attitude towards the system in general (in particular transition losers) will be inclined to overestimate the corruption scale and attribute it primarily to the political representatives of the new system; that the opposition-supporting groups will also be more inclined to overestimate the corruption scale relative to the previous period, with the supporters of the regime (ruling coalition) being more likely to overestimate the scale of positive changes. Finally, that the generations which were, in their formative years, socialized on the basis of solid moral standards, within a stable society, will demonstrate greater lack of tolerance towards corruption, and less moral cynicism than the generations that grew up amidst social anomy.

These general assumptions can be complemented by some more specific ones, which refer to the phenomenon of corruption in any society, or are special characteristics of all postcommunist societies. The most important ones include the impact of education level on the perception of changes in the corruption level: the more educated members of the society are able to perceive the complex forms of this phenomenon, its causes and subtle changes.[1] Besides, it is worth mentioning the significant impact of expectations from the changes of the system and regime (i.e. the feeling of relative deprivation) as a general factor affecting the assessments on the corruption dynamics in the society: great expectations from the reforms increase the "impatience" of all or some members of the society, thus affecting the level of their critical attitude (i.e. the underestimation of progress in the fight against this negative social phenomenon). Finally, the factors characteristic of all postcommunist societies, which can be of importance in this respect, are the insufficient transparency of institutions and processes, causing insufficient information, inherited lack of citizens' trust in the government, severe political polarization of the society leading to decreased rationality, as well as the prevalence of perceptions on social reality that are often "distorted" by the existing prejudice and stereotypes.

In a study that is primarily focused on comparisons it was not possible to test all these hypotheses. Therefore, the following study report is a description rather than an attempt to interpret the observed changes in the perception the Serbian public has on the state of corruption in the society in the two periods under observation.

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1 Although this does not mean that those with more education are always the most objective in their assessments, since the factor of their dominant political affiliation "interferes" here as well.

PERCEPTION OF THE PHENOMENON OF CORRUPTION

Is corruption perceived as an important social problem?

The problem of corruption in Serbia has been in the focus of public attention for a decade and a half. In transition periods, which are usually accompanied by sudden and deep social stratification, the focus of the people on the cases of (unjustified) wealth increase increases. The higher sensitivity of the general population to the breaches of moral norms, in particular by the political elite, is also characteristic of the periods of upheaval, precisely because they symbolically mark the entry into a new, better and more just order. For that reason, in this kind of social situation people often perceive the problem of corruption as one of the key social problems and frequently identify it with their personal problems. Today, just like five years ago, the citizens of Serbia rank the problem of corruption among the most important problems the society is facing. Around 1/4 of responses (i.e. 24%) identifying the most important social problems of Serbia refer precisely to the problem of corruption (the problem is mentioned as the first or the second response).[2] In the overall ranking of responses related to the most important social problems, corruption ranks behind the problems related to financial position such as poverty (mentioned by 47% of people) and unemployment (45%); corruption is also behind the problem of operation and survival of the political system – i.e. the problem of political instability (34% of the total responses given).

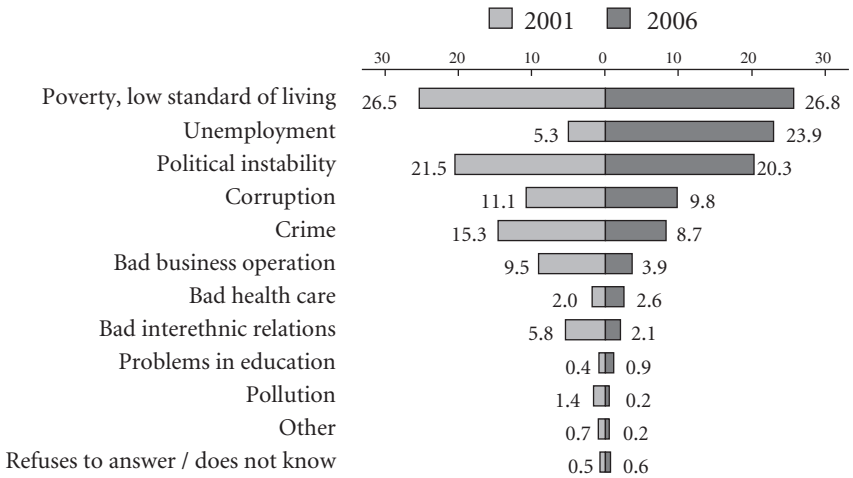
Even when observing only the responses in which one of the problems is pointed out as indisputably the most serious (it is put in the first position on the list of the important and serious problems the present Serbia faces), corruption occupies the prominent fourth position. This means that 1/10 of the population identifies precisely corruption as the first and the foremost social problem – which is two and a half times less frequent than the problem of poverty and twice les frequent than unemployment and political instability, but it is ahead of the problem of crime, bad business operation, bad health care, etc. (Figure 1).

A comparison of the two periods, i.e. 2001 and 2006, points to the fact that the share of people who perceive corruption as one of the very important social problems went down by only one percent (10:11), which could mean that the awareness of the population of its importance did not change much. Something similar can be said for the perception of other social problems, which mostly remained unchanged, in particular with regard to poverty and political instability. Changes are the largest when it comes to "crime" (the problem stressed by almost

[2] The respondent was able to mark two problems he considers to be the most important (multiple responses) Data in brackets denote the percentage of respondents mentioning one of the stated problems.

50% fewer citizens than in the past – in the past 9%, now 15%) and "bad interethnic relations" (66% fewer – in the past 2%, now 6%).

Figure 1 The most serious problems Serbia faces – first-ranked response

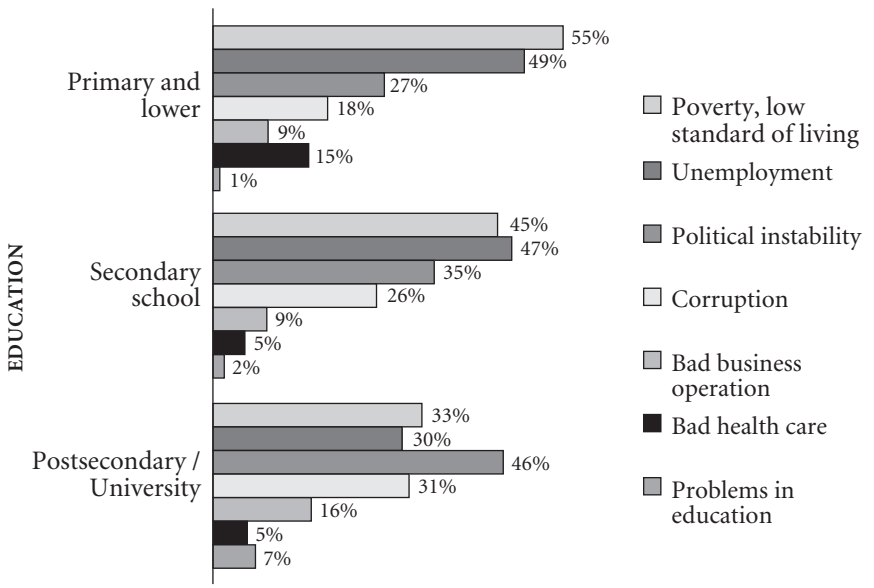


When comparing the findings of these two studies (2001 and 2006) it can also be seen that today (unlike the previous period) *corruption is attributed greater importance than crime*, although the citizens' attention directed to that problem remains practically the same. People obviously believe that the new government dealt with the problem of crime more successfully (although it still exists) than with the problem of corruption. It is also possible that during the previous period, with the acceleration of the privatization process, corruption inevitably became a socially more prominent phenomenon than crime. It is probable that the importance of this problem in the people's perception would be even greater if it had not been overshadowed by a new problem of social pathology, also inextricably connected with the process of economic restructuring, which is the problem of unemployment. Five years ago "unemployment" was denoted as a key social problem by only 5% people in Serbia, and today by as many as 24%. Furthermore, the figure shows that while the percentage of citizens that set greatest store by crime is decreasing, their concern about the situation in the education and health care system is on the (slight) rise. At the same time, as already said, the areas that are perceived today as significantly better, or which are not considered as important as in the past, are "bad business operation" and "bad interethnic relations", as well as "pollution".

Although, generally speaking, the problem of corruption ranks relatively high, it does not attract the same attention of all social groups. In the context of the general social turbulence, this question is most

frequently raised by the generation between 35 and 45 years of age (which, in general, show in this study a more critical attitude towards the pace of social reforms), as well as the better educated and wealthier categories of the people. The problem of corruption attracts significantly less attention of the respondents with lower education level who are clearly preoccupied with the problems of poverty and unemployment (Figure 2). To a certain degree, this problem is also disregarded by the oldest, non-working citizens. The comparison between the Serbian regions shows that the citizens of Belgrade show significantly higher and of Vojvodina somewhat lower concern about corruption than the average citizens of Serbia.

Figure 2 The most serious problem the society faces (the percentage of citizens mentioning the problem as the first, or the second choice) according to the education level



Is corruption perceived as an important personal problem as well?

Corruption is perceived somewhat more frequently as a serious social issue than as an important personal problem. Among personal problems, it ranks fifth (both in the overall structure of responses and among the first-ranked problems). Personal problems that are more important to the citizens are poverty and low standard of living, unemployment, political instability and bad health care (Table 1). Since it is mentioned

with double the frequency as a social rather than a priority personal problem, corruption is clearly treated similar to political instability and crime. On the other hand, *poverty or bad health care* is considered a personal problem to a greater degree than a social problem. When it comes to the problem of unemployment, although it is mentioned somewhat more frequently as the most important personal problem, the difference in the number of those who perceive it as a social and personal problem is smaller; this means that unemployment is generally perceived as threatening and detrimental both to the society as a whole and individuals.

Table 1 The most important social and personal problem in 2006 (percentage of first-ranked responses)

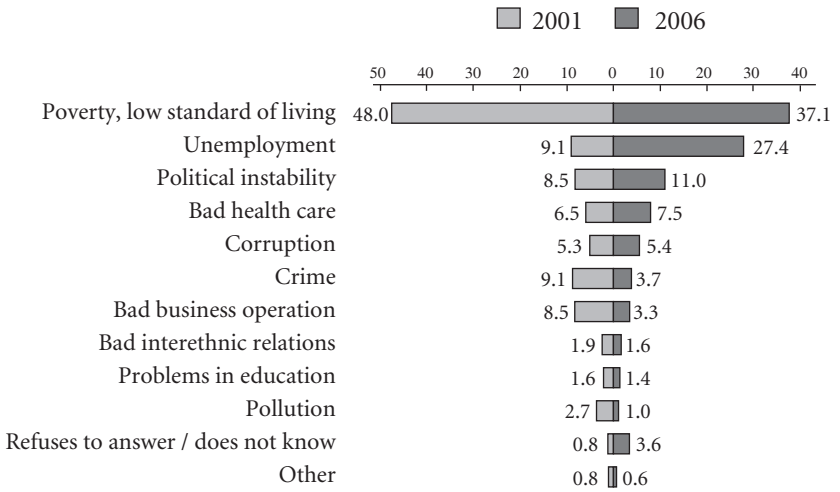
Problem	Social	Personal
Poverty, low standard of living	26.8	37.1
Unemployment	23.9	27.4
Political instability	20.3	11.0
Corruption	9.8	5.4
Crime	8.7	3.7
Bad business operation	3.9	3.3
Bad health care	2.6	7.5
Bad interethnic relations	2.1	1.6
Problems in education	0.9	1.4
Pollution	0.2	1.0
Other	0.2	0.0
Does not know / Refuses to answer	0.6	0.6

The perception of corruption as the primary personal problem is particularly characteristic of the people between 30 and 45 years of age (i.e. the generations born between 1960 and 1975), of the highly-educated, employed in private firms and those who are better off. This could be a problem that younger private entrepreneurs perceive as particularly threatening, since they see corruption as more of a hindrance than as support to better business operation and faster economic progress.

When comparing data from the two periods, it can be seen that the number of those who see corruption as the main personal problem remained at the level of 5%, which may also have impact on the assessment of its present prevalence. At the same time *the number of people personally affected by poverty* went down by one tenth (from 48% to 37%), the number of those affected by the problem of crime went down by half (from 9% to 4%), only a third of the previous number of citizens personally concerned about bad business operation (from

9% to 3%), and pollution (from 3% to 1%) remained. In contrast, the feeling of personal frustration caused by the problem of unemployment spread to a great degree – from 9% in the past to 27% of the population (Figure 3).

Figure 3 The most important social problem perceived as the most important personal problem in the two periods under observation (2001 and 2006)



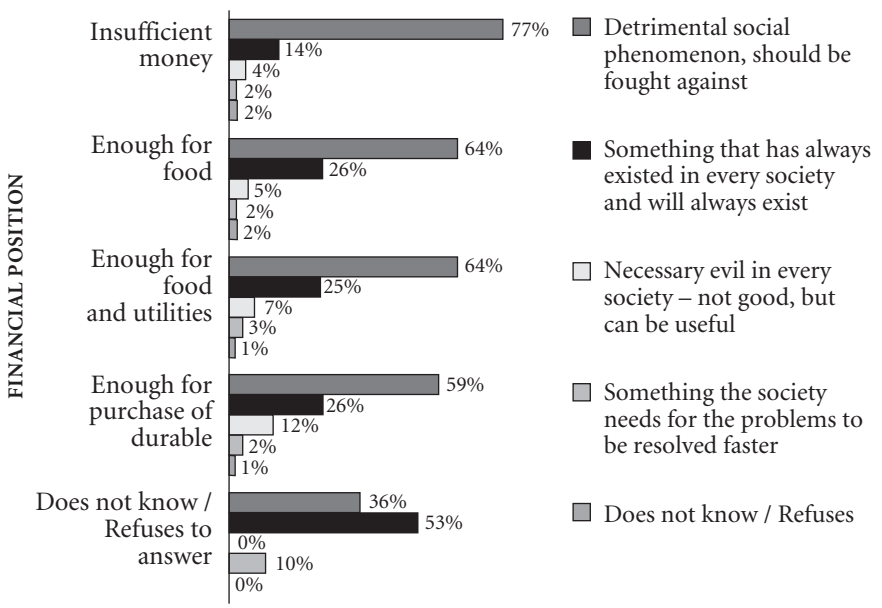
Is corruption perceived as a social evil?

The previous research (from 2001) pointed to the conclusion that in the Serbian society there is, at least partial, *adaptation* to some corrupt practices, with some of its segments treating this phenomenon with greater resignation than some others. The latest data (from 2006) determine more closely the groups for which it can be said that they show signs of adaptation to this socially pathogenous phenomenon and point to some conclusions on the motives underlying this tolerance. The findings show that in the period between two studies the number of citizens exhibiting a negative attitude towards corruption posted a slight increase, which means that *tolerance towards corruption in the society also partially went down.* In 2001 just over 60% and today 66% of people take an unyielding position expressed in the form of claim that corruption is "something that is a phenomenon highly detrimental to the society, which should be fought against in every way". Furthermore, a somewhat lower number of citizens (approximately 24%, relative to the 29% previously) expresses a fatalistic position according to which corruption is an "inevitable" and "everlasting" phenomenon in every society. Approximately 7% of

respondents believe that corruption is a "necessary evil" which can be useful as well, while 3% believe that it is even necessary for the society so that problems can be resolved faster.

In the poorest category there is a significantly larger number of those expressing an unyielding attitude towards corruption (77%) than in other population categories. The poor and unemployed are also much less than others resigned to the inevitability of the existence of corruption in the society (Figure 4). Transition losers obviously become more sensitive to social circumstances contributing to increasing economic stratification of the society and perceive corruption as one of the obstacles preventing them from improving their unfavorable financial position. In contrast, more educated groups exhibit a more realistic approach, with a position that corruption is inherent to each society (34%). There are also indicative differences in the perception of corruption as a social evil between the youngest and the oldest groups, suggesting that *the youngest categories of the society (18-29 years of age) are characterized by moral cynicism*. These differences will become evident not only with regard to the understanding of what corruption represents, but also the degree in which such a phenomenon is condemned and rejected.

Figure 4 Opinions on what corruption represents, according to the financial position of respondents



What is classified under corruption (operationalization of corrupt activities)?

The position towards corruption, either positive or negative, is obviously connected with its clear *definition*, i.e. with the awareness of which actions and practices can be connected with it. In Serbia there are fewer and fewer doubts in that respect. Not only do they *concur to a significant degree in the operationalization of corrupt practices* (between 63% and 92% respondents agree about the type of practices that should be included in corruption) but, in the meantime, the list of these practices *has increased*. Today a larger number of people than in the previous period recognize corruption in the practices such as "subsequent services to the lawyer", "giving money to the traffic officer in order to avoid a fine", "disclosing business information for personal gain", "giving presents to a doctor", "giving pre-election donations to political parties", "pulling strings in order to find a job for a relative", etc. (Table 2)

Table 2 Which of the following is corruption? (operationalization of corrupt actions in the two time periods – 2001 and 2006)

Practices	2006	2001
	%	
Giving money to a civil servant for the purpose of tax reduction	92.1	89.8
Offering money to a traffic officer so that he does not take away your driving license	90.7	84.9
Abusing the official position to provide gain for your private company	87.7	83.9
Disclosing business information to other people for personal gain	83.8	79.1
Pulling strings to release someone close from military service	76.4	73.5
Intervening with a high official to employ your relative	75.1	64.3
Additional fee to a lawyer for assistance to a defendant in court	70.3	50.0
Giving a present to a doctor so that he takes special care of you	68.9	59.3
Giving pre-election donations to political parties	68.4	43.9
Offering counter service in order to get a leave from work	66.9	63.1
Personally contacting a councilor in order to obtain a construction permit	62.8	53.0

These changes can indicate a weakening of the influence of customary norms (primarily, the reciprocity norm) on the appearance of corruption, i.e. they can point to the establishment of some new rules of behavior that can have positive effect on its elimination. The awareness of the people of the fact that some activities are prohibited has been raised,

even if they are not subject to legal sanctions, which means that a clearer concept of corruption is crystallizing. Such crystallization is probably a consequence of intentional or unintentional education of citizens on corruption, which is conducted through the mass media, government campaigns, or civil sector activities, and which intensified significantly after 2000.

Opinions about the basic causes of corruption

Opinions on the *basic* causes of corruption in Serbia have partially changed compared to the previous period, although not substantively. Judging by the frequency of some answers,[3] it is becoming obvious that the citizens of Serbia now, as five years ago, believe that there are three main causes of corruption in the society: *moral crisis* of the society (stimulating dishonesty of its individual members), *general poverty* (which for some people implies a necessity and justification of breaching moral standards), and *insufficient development of the rule of law* (causing a general climate of lawlessness). What changed partially is just the frequency with which each of these basic causes is mentioned. If the moral crisis is considered the most frequent cause of corruption in Serbia, a somewhat larger number of people than previously also interprets it as a consequence of general poverty, and a somewhat smaller number perceives it as a consequence of the lack of rule of law and of the rule of lawlessness. The impression is that such changes in the understanding of corruption causes are a part of a more general process in which the attention of the public is directed more towards economic than legal-political origins of social problems (Table 3).

The interpretation of corruption causes (i.e. frequency of certain answers) is connected, at least partially, with sociodemographic characteristics of the respondents. Reference to *moral crisis* is more frequent among the highly-educated, urban population as a whole, in particular among the citizens of Belgrade. The same answer is much less frequently found among people of the lower education level and among rural population. *General poverty* is most frequently mentioned by the least educated, rural population and the oldest citizens. All those groups that still live within the boundaries of traditional morality and, due to a lack of education, interpret in a simplified way the complex social reality, understand corruption only as a reaction of the people to dire financial circumstances. *The lack of rule of law* as a source of corruption is most frequently cited by students and the youngest respondents, while *insufficient efficiency of the court system* is mentioned by the people with higher education levels. Such an interpretation of corruption fits into the generally critical attitude towards the society and government that is characteristic of these groups.

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[3] It was possible to give up to three answers. Table 3 gives an overview of distribution of the stated reasons (cumulatively).

Table 3 Basic causes of corruption in our society (cumulatively % of the total answers given)

Causes of corruption	%
Lack of morals and dishonesty. moral crisis	52.0
General poverty	51.0
Lawlessness, lack of rule of law	39.6
Inefficiency of the court system	25.9
Political system	20.9
Bad legislation	19.0
War and sanctions	15.5
Human nature, people are like that	13.6
Low wages of civil servants	11.0
Heritage of the previous communist system	9.4
Economic system	6.2
Lack of clear administrative control	5.1
Interference of the government in economic flows	3.4
Does not know / Refuses to answer	0.8

The most important cause of corruption

A somewhat clearer picture of what the public thinks about the basic causes of corruption in the country is obtained on the basis of ranking *the most important* among them. On the whole, general poverty (25% of responses), moral crisis (24%) and lack of the rule of law (16%) still arise as priority interpretations. However, certain social groups put forward different causes, which depends primarily on the education level, type of settlement and region. General poverty is the primary cause of corruption for one third of the people with primary school degree, one fifth of those with secondary school degree and only one tenth of those with university degrees. When in comes to moral crisis as the main cause, the order is reverse: this cause is pointed out by 19% of the least educated, 26% of those with secondary school degree and 33% of the respondents with university degrees (Figure 5). An above-average number of respondents from the oldest generations (over 60 years of age), students and respondents from rural areas point out poverty as the most important cause of corruption; the same answer was given by a below-average number of respondents from urban areas, citizens of Belgrade, the wealthiest, employees in state-owned companies and members of the younger middle-aged generation (between 30 and 45 years of age).

There is a common denominator (i.e. criterion) that may lie in the basis of such an obvious division of citizens causing the interpretation of causality of the corruption phenomenon: it is reflected through the question whether the responsibility for corruption is attributed primarily to *subjective* factors (lack of morals, dishonesty) or *objective*, external factors (general poverty that is socially generated). The division refers, in fact, to the factors individuals can or cannot influence, which are a matter of their nature and character, or are caused by external circumstances beyond their control. In brief, the existing interpretations of the main causes of corruption in our society reflect different views on social and political events which left their mark on this period and which we recognize in the multitude of other political positions as well. For some of these interpretations it is characteristic that the responsibility for all negative social events is transferred to the members of the society (their "mentality" or "national character); the others attribute the responsibility to external circumstances or influence of objective, political and economic factors ("economic crisis", "negative role of the international community", existing political and economic system, etc.). Thus, those are different attributions of responsibility, arising from more general social representations, perceptions of social reality characteristic of certain social strata.

As regards the third most important cause of corruption that is stated – i.e. *lack of the rule of law and lawlessness* – in this political context this is indubitably a matter of a critical attitude of a part of the public towards the current political *regime* (ruling coalition). Despite the fact that this cause, seen separately, is less present among the population than the previous two, the impact of this interpretation on public opinion can be further-reaching. Namely, there are several other answers that have the same import ("inefficiency of the court system", "bad legislation in this area", "lack of clear administrative control", "interference of the state in economic flows", "low wages of civil servants") and can be classified in this same category of explanations within which the sources of corruption are seen to be actions or non-actions of the given regime. Although there are differences among certain social categories regarding other stated causes of corruption as well, they are not systematic and consistent enough to be attributed greater importance.

When the data from the two studies and periods are compared, it appears that today general poverty is mentioned much more frequently (25%:17%) among the causes of corruption, with "lack of morals and dishonesty" (24%:20%) and "political system" (7%: 4%) being mentioned somewhat more frequently. On the other hand, the following causes are mentioned less frequently: "lack of rule of law" (16%:23%), "low wages of civil servants" (2%:4%) and "non-existence of administrative control" (1%:2%). It seems that people today see the state as better regulated (legally), but the society as poorer and slightly more anomic (Figure 6). When the two periods are compared according to the categories of attributed responsibility for corruption (whether the

focus is on objective, subjective or systemic causes) the following hypothetical conclusion can be drawn: five years ago the *systemic* causes dominated (i.e. people saw the causes of corruption mostly in the weaknesses of the political system and regime), probably under the influence of serious politicization of the society and general anti-regime sentiment; today the public distributes in a relatively balanced manner (meaning more objectively) the "responsibility" for corruption among different types of social factors and subjects. *The more objective identification of corruption causes* is, however, the first precondition for its successful combating.

Figure 5 The most important cause of corruption in Serbia according to the education level

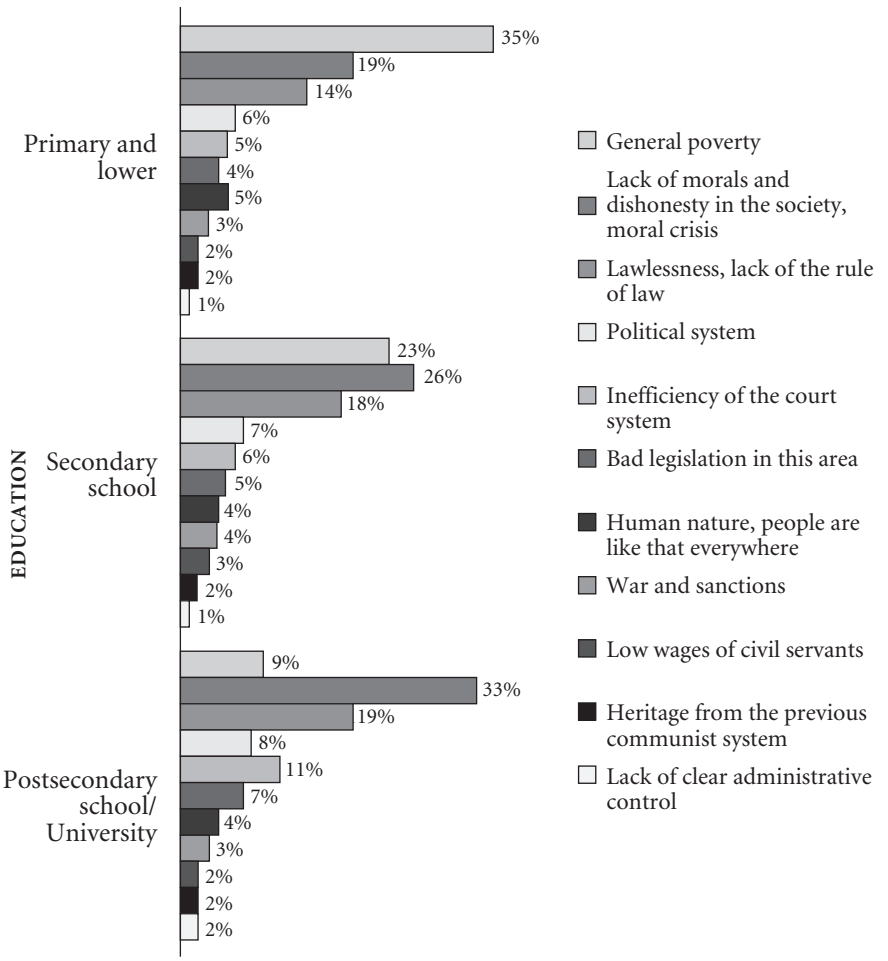
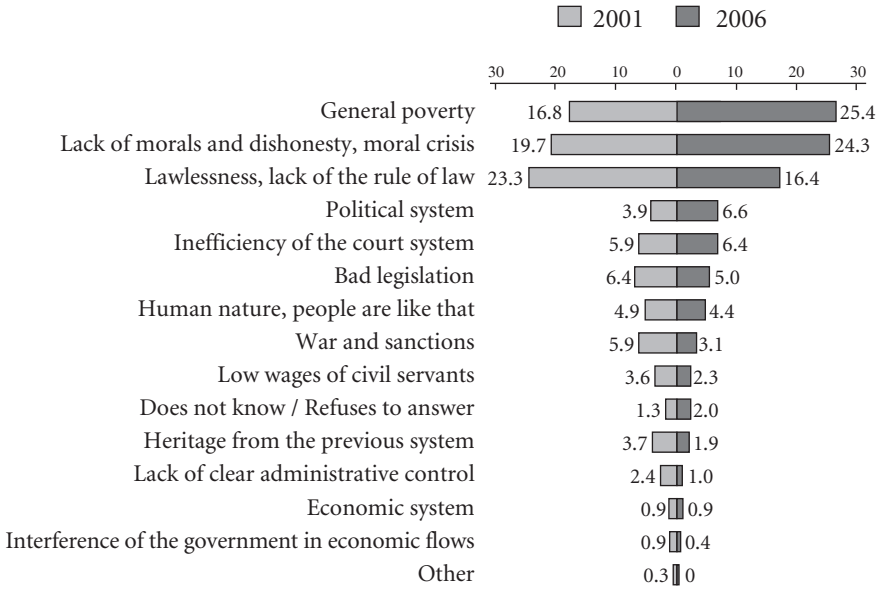


Figure 6. The most important causes of corruption – comparison between 2001 and 2006



PREVALENCE AND INTENSITY OF CORRUPTION IN SERBIA

Assessment of corruption prevalence in the two periods

It is very difficult to compare and interpret the psychological meaning of the assessments given by the Serbian public opinion about the scale and intensity of corruption when a question is posed to them in time perspective (i.e. a period covering the previous ten and the following ten years). In principle, the reference points of the assessment of corruption prevalence differ, not only from one individual to another, but also within different social groups, depending on their "transition" experiences, position in the social structure and general political orientations. However, the assumption also contained in the logic of the question posed – is that the people will assess the scale and intensity of corruption primarily according to the *political regime* that was in power at a certain moment. Thus, the terms "ten years ago", "five years ago" and "today" mark, in fact, the periods of socialist rule, DOS government (immediately after the upheaval on October 5) and current minority, coalition government. Proceeding from this assumption, it is expected in advance that assessments will be affected not only by different social, individual and group experiences, but also political, pro-regime or anti-regime position of the respondents. However, while in the period of Milošević's rule this division was relatively simple (for and against its regime) the present political life of Serbia is many times more complex; in particular due to the fact that it is a minority government,

i.e. because of the constant tension between the political positions of the people occupying two key state functions.[4] All this could cause even greater subjectivity of assessments registered by this subjective indicator of corruption presence in the society.

Taking into account these reservations, the distribution of subjective assessments on corruption prevalence as a whole gives the following picture (Table 4):

Table 4 Subjective assessments of corruption prevalence in our society in the time perspective from the two periods[5]

Period	Average rating (1-5)	
	2006	2001
Ten years ago	3.6	-
Five years ago	3.8	4.1
Today	4.2	4.1
In five years	3.8	2.9
In ten years	3.3	-

If the obtained data are viewed as a whole, there do not seem to be statistically significant differences in the assessments of corruption prevalence from the two periods. However, the problem lies in the fact that the level of statistical significance of this difference could not be tested.[6] In other words, no unambiguous conclusion can be reached on whether the difference is statistically significant or not, although in this case according to the assessments of the public, corruption apparently remained at the same level. However, when the average assessments given by the members of certain social groups are observed, there are differences in perceptions confirming the previously presented assumption that assessments on corruption depend to a great extent on general political positions of the respondents (i.e. positive or negative attitude to the present or the previous regime). Namely, the same groups that already expressed a less critical attitude towards the period of Milošević's rule (older generations, pensioners, the less educated, the less well-off, population of rural areas and Central Serbia, as well as women)[7], are

4 At the time when the study was conducted the President of the country belonged to a party which was not part of the ruling coalition then. Another problem is what the respondents understood under the society as a whole, in view of the fact that the study was conducted before the referendum in Montenegro, i.e. separation of Serbia and Montenegro.

5 Because of the difference in the form of the question asked there are no data referring to the ten-year period from 2001.

6 Since the data base on the basis of which the 2001 assessments were made could not be reconstructed, it was not possible to assess the statistical significance of the difference between any rating of public opinion of Serbia for 2001 and 2006.

7 Which can be concluded on the basis of findings of other studies, in particular their choices in the elections.

inclined to assess more favorably the previous state of corruption (in the period ten years ago). On the other hand, younger generations, the better educated, employees of state-owned companies, the wealthier, inhabitants of Belgrade and the cities, as well as Vojvodina – typically assess more severely this (Milošević's) period. The division is not so clear when looking at the time directly after the upheaval on October 5 from the present-day perspective: some perceive it as a sudden reversal in the society in every, including the moral sense, while others see it as a continuation of old, or multiplication of new forms of social pathology (so assessments are also inconsistent). However, it is quite clear that the assessments of the present state of corruption in the society given by pensioners, respondents without primary school degree, the poorest and unemployed, living at the same time in urban areas – in brief, urban paupers – are considerably stricter. Transition losers believe that the society is more corrupt than the other members of the society assess. More favorable assessments on corruption prevalence are given primarily by university students, the youngest respondents, rural inhabitants, and partly private businessmen and better-off citizens. As regards the projection of movement of corruption scale in the following period, similar to what could be observed in the previous study, the public is exhibiting optimism, i.e. supporting the belief that it will gradually decrease. However, in the past five years the optimism from October 5 has deflated to a significant extent, so the expected improvement in the situation in this area is quite moderate. The data from Table 4 show that five years ago people were greater optimists, i.e. that they expected the corruption scale to go down more significantly (expressed in average ratings from 1 to 5, from 4.1 to 2.9). Today, citizens expect that in the following period the corruption scale will be reduced insignificantly – from 4.2 to 3.8. The largest pessimism regarding the possibility of corruption scale reduction in the future is expressed by the unemployed, citizens of Belgrade, as well as men somewhat more than women.

Areas in which corruption is most widespread

Table 5 shows the average assessments on corruption prevalence in certain areas given by the citizens of Serbia in these two periods under observation. It points to two regularities. Firstly, that corruption is assessed as a very common phenomenon in almost all areas; this means that there are still relatively small differences in the average assessments of corruption prevalence (on the scale from 1 to 5, the average ratings range from 2.9 to 4.2). Secondly, that in the period of five years there have been *minor changes in the given assessments (average ratings)*, although it remains unclear whether those changes are statistically significant.

Table 5 Assessments of the degree of corruption prevalence in certain areas of social life (scale from 1 to 5)

	2006	2001
Judiciary	4.1	4.2
Customs	4.0	4.7
Political parties	4.0	3.8
Top government officials	4.0	3.8
Police	3.8	4.1
Health care	3.7	4.0
Republic administration	3.7	3.8
City administration	3.7	3.8
Municipal administration	3.6	3.8
Socially (state)-owned companie	3.6	4.0
Public enterprises (EPS, PTT, …)	3.3	3.8
Private companies	3.2	3.7
Education	2.9	3.2

Judging by the average assessments of corruption prevalence, this phenomenon is most frequently attributed to the *judiciary, customs service, political parties and top government officials.* Five years ago the order was somewhat different: citizens perceived corruption as widespread, primarily in the customs service, then the judiciary, police, health care and state-owned companies. Although the assessments citizens give to all these areas are somewhat more moderate, with the obtained differences in average ratings from the two periods not being statistically significant, certain changes can be observed. For example, the first four institutions that are believed to be highly corrupt (average rating 4 or more) now include political parties and top government officials, which was previously not the case. Also, the police, health care and state-owned companies have been left out from the category of the most corrupt (they move to the category of the medium corrupt, average rating 3-4). Education is still maintaining the lowest average corruption rating (below 3).

When reviewing the average ratings on corruption prevalence given by certain social groups, it is possible to observe certain differences, depending on the area being assessed. It is difficult to give an unambiguous explanation for these differences, since the assessment is influenced by various interacting factors: interests related to certain areas, current and formative experiences, political inclinations, as well as the resulting position of the group in transition flows (transition winners or losers). Therefore, only the most typical differences will be described here. For example, corruption in the judiciary is pointed out in particular by the employees in state-owned companies and citizens of Belgrade; corruption in the customs service by university graduates, employees of state-owned companies, respondents

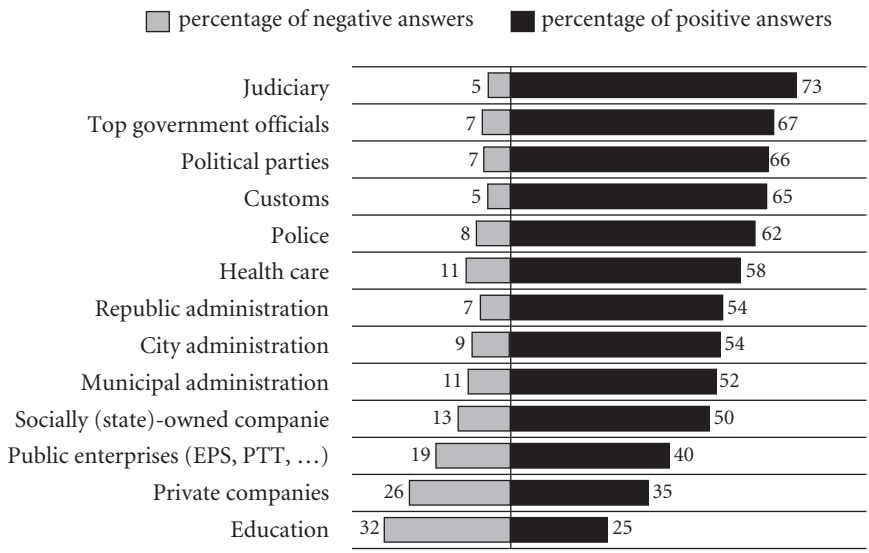
from urban settlements and Belgrade; corruption in the health care system – the poorer, employees in state-owned companies, citizens of Belgrade, women more than men; corruption in political parties – the poorer, respondents from Vojvodina, urban population, and considerably fewer respondents who are among the youngest, most educated, students, inhabitants of the central Serbia; and finally, corruption among top government officials – is most frequently pointed out by the generations between 30 and 45 years of age, those without sufficient means, from the central Serbia, and considerably less by the citizens of Belgrade.

When reviewing the assessments of the state of corruption in Serbia given by various socioeconomic groups it can be noted that some categories of people consistently show more or less critical attitude. The following are particularly critical (meaning that they give above-average ratings of corruption prevalence for more than seven to nine areas): the generations between 30 and 45 (those whose generation is characterized by passing, in their formative years, through anti-systemic and anti-regime socialization); university graduates (the best informed), employees in state-owned companies (who are known to be going through the stage of accelerated privatization) and citizens of Belgrade. Less critical attitude is particularly characteristic of rural population, the least educated and homemakers (which can be interpreted as a combination of the factors of education and insufficient information level).

The average ratings cannot give the true picture of perceptions that the citizens of Serbia have of corruption in Serbia. It is necessary to present additional data on the percentage of people that believe that in certain areas of social life corruption is "very much present", and the number of those who believe that in some areas this phenomenon is "completely non-existent". These percentages of responses are presented in the following figure (Figure 7).

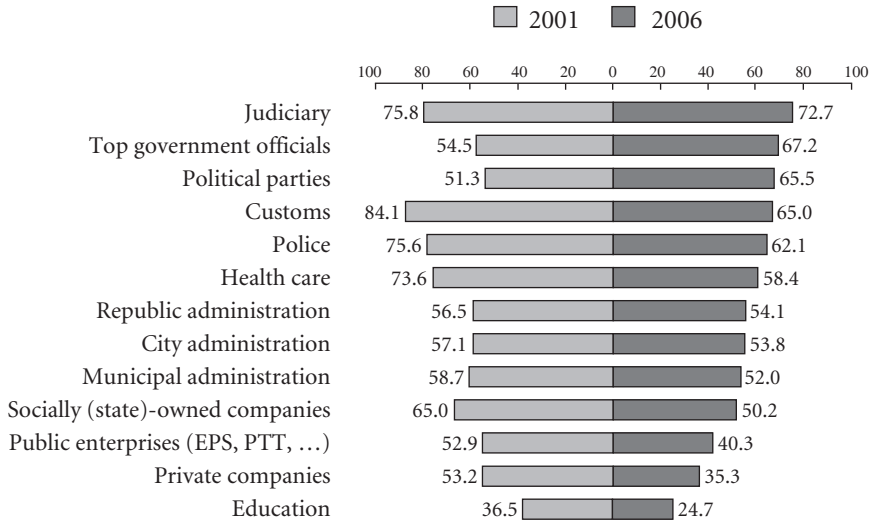
Presented in this way, the findings show that the education system is the only area of social life in which citizens who believe corruption no longer exists are more numerous than those who believe that it exists (more citizens denying than accepting its existence). When observing only those areas of social life which are more frequently said to exhibit corruption, the first five areas remain the same as previously, although the order is somewhat different. The largest portion of population (2/3 and more) denote the judiciary (72.7), top government officials (67.2), political parties (65.5), customs (65.0) and police (62.1) as the areas with the highest level of corruption; while private companies (35.3) and education system (24.7) are at the bottom of the corruption ladder (1/3 and less). The differences in the level of critical attitude between various categories of citizens are smaller when the answers are grouped in this manner than when the average ratings they give are observed. The impression is now that these differences are more situation-related than systemic. This means that they are a result of accumulated sporadic experiences rather than a characteristic of socioeconomic position (position in the social structure).

Figure 7 Percentage of citizens who believe that corruption is widespread in the given areas (affirmative answer), or is non-existent (negative answer)



Comparison of the findings from the two periods under observation, 2001 and 2006, points to significant changes in the perceptions of corruption prevalence in certain areas of social life and within certain institutions. However, interpretations of these differences should certainly not be oversimplified. Namely, it is worth reminding again that, according to the average ratings of corruption prevalence, there are no statistically significant differences between 2001 and 2006. When a comparison is also done according to the percentages of those who believe corruption is significantly prevalent in certain areas, it can, in fact, be concluded that the situation in many areas is assessed as better than in the past (i.e. it is believed that today there is less corruption than previously). It is worth noting that the judiciary again ranks the highest according to the degree of assessed corruption, while the ratings of corruption scale in this area remained approximately the same. However, *there has been a pronounced reduction in the number of citizens who believe that corruption is present in the customs service (from 84% to 65%), in the police (from 76% to 62%), health care (74% to 58%), private, state-owned and public companies and, to a certain extent, in municipal administration*. Judging by the answers, *the attitude of the public towards the government and political authorities has become much more critical.* The differences are particularly visible in the ratings of corruption among top government officials (previously 54%, now 67%), and political parties (previously 51%, now 66% (Figure 8). Since criticism is directed not only towards the highest government authorities, but also towards political parties – it can be assumed that criticism in this respect refers to all prominent political subjects and the area of politics in general.

Figure 8 Percentage of citizens who believe that corruption in present in the given areas (affirmative answer) in the two periods



We can offer two possible explanations of the less favorable perception of citizens of corruption among the top Serbian government officials and politicians. One explanation is that the differences in ratings are pronounced because in the five-year period the victorious euphoria of October 5 has subsided, after *excessive expectations* were tied both to the changes and their actors and, as such, could not be met. Today citizens express their disappointment by blaming the political actors of the new system for corruption. Just like on October 5 many members of the society were satisfied just by the change of the persons at the highest positions, now these *personalized* authorities (not institutions or necessities of the transition process) are considered *personally* responsible for dashed hopes. The second explanation refers to the fact that with the arrival of new authorities numerous corruption-related scandals "at the top" were uncovered, after being hidden from the public for a long time. Since the corruption-related proceedings and mechanisms have now become more transparent and citizens better informed about them – a perception is formed that there is more corruption and that it is mostly related to those in power. This finding seems paradoxical primarily because it is contrary to the citizens' assessments that progress has been made in institution building and establishment of the rule of law in Serbia, which are given in this study. It is also evident that three key areas that corruption used to be tied to are now rated more favorably – the customs service, police and health care system. The public is obviously aware of serious reform efforts in these concrete areas, which in itself can be sufficient for the state of corruption to be seen in more favorable light. The same can be said for the assessments of corruption existence in state-owned and public companies. Finally, the fact that

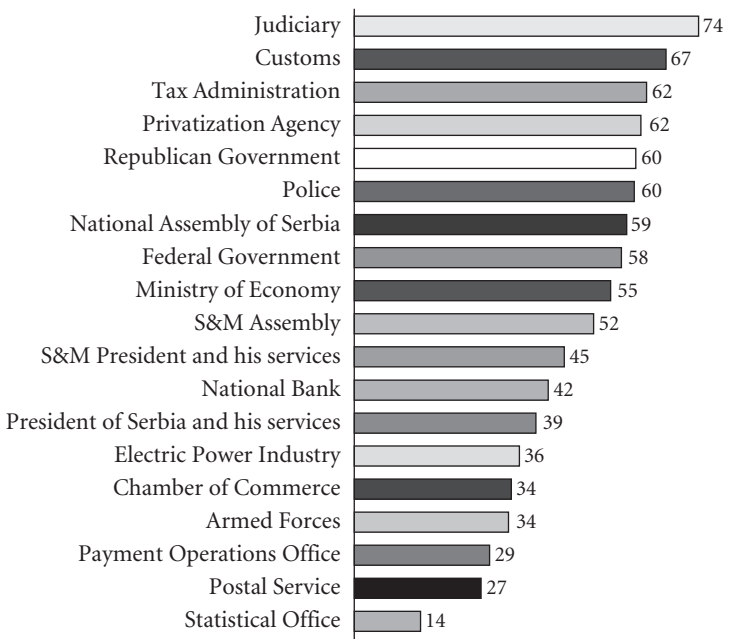
most of the citizens believe that there is also less corruption in private companies can be a consequence of the belief that some necessary reforms have been implemented in this area of economic life as well (tax reforms), all within the construction of the legally regulated state.

Institutions in which corruption is considerably widespread

In which institutions is there corruption?

An extended list of *institutions* offered to the respondents with a task to assess whether there is any corruption in them, and which corruption level is characteristic of them, gives a more precise picture of the perception of these institutions in the public and also says something about the overall corruption level in the society as a whole. The shares of those who believe that corruption is widespread in those institutions and that there is no corruption at all give the following picture (Figure 9)[8]:

Figure 9 Is corruption widespread in the following institutions (% of answers stating "widespread")?

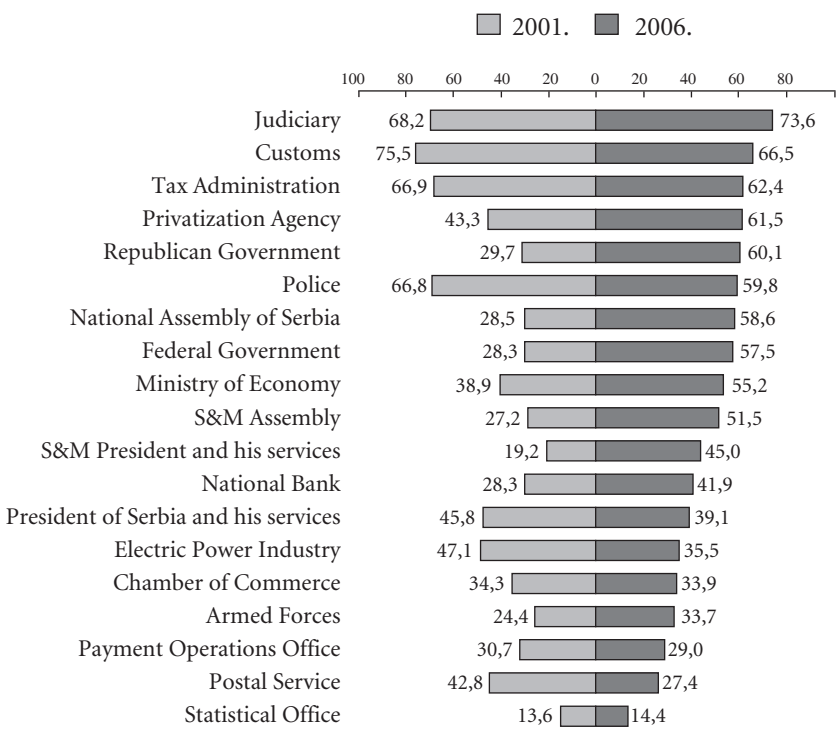


8 The percentages of answers to the question whether there is any corruption at all (regardless of the degree of intensity) or there is no corruption at all in the given institution are given.

The answers show that there is a widespread belief that *there is corruption in all the key institutions of our society. The largest percentage of affirmative answers on corruption existence is given for the judiciary (74%), and the smallest for the Statistical Office (14%).*

The comparison of two periods (2001-2006) shows that there was a significant *increase* in the *percentage of citizens believing that corruption is present* in: the Privatization Agency (from 43% to 62%), Republican Government (from 30% to 60%), National Assembly of Serbia (from 29% to 59%), former Federal Government (from 28% to 58%), Ministry of Economy (from 39% to 55%), former S&M Assembly (from 27% to 52%), former S&M Presidency (from 19% to 45%), the National Bank (from 28% to 42%), significantly less in the Armed Forces (from 24% to 34%) and, to a certain extent, in the judiciary (from 68% to 74%); it reduced significantly as regards the customs service (from 76% to 67%), the police (867% to 50%), Electric Power Industry (from 47% to 36%), Postal Service (from 43% to 27%) and to a certain extent the President of Serbia and his services (from 46% to 39%) (Figure 10).

Figure 10 How much has the picture of corruption existence in the following institutions changed in the two periods (% of affirmative answers – "widespread")



When observing the changes in percentages of the answers that corruption *is not widespread at all* (i.e. the answers that deny existence of corruption in the given institutions) a complementary picture is obtained: the largest decrease in the number of those *not believing* that corruption is present exists in case of the Armed Forces (from 41% to 28%), S&M President (from 48% to 17%), National Bank (from 28% to 17%) and the S&M Assembly (from 28% to 11%), Federal Government (from 29% to 10%), National Assembly of Serbia (from 28% to 9%) and the Republican Government (from 28% to 9 %). The perception is more favorable when it comes to the customs service, Statistical Office, Postal Service, Electric Power Industry, Payment Operations Office, the President of Serbia and his services, Chamber of Commerce and the Tax Administration, while it remains unchanged regarding the judiciary and the Privatization Agency (only more significant changes are mentioned).

Average ratings of the level of corruption prevalence in the given institutions

The average ratings that express the citizens' opinion about *the scale of corruption* in the given institutions (on the 1-5 scale) change to a certain extent their order on the corruption level ranking list. Five years ago, corruption was most frequently associated with the institutions such as the customs, Tax Administration, the judiciary and the police. The Presidency of former FRY, the Statistical Office and the Armed Forces were designated as institutions in which the level of corruption was the lowest. Today, the *judiciary, the customs service and the Tax Administration are still at the top of the list*, but the Privatization Agency has found its way into this group – from the fifth, it went up to the third place on the ranking list. The Armed Forces, the Postal Service and the Statistical Office remain at the bottom of the corruption level ranking list. It is interesting to see which institutions changed their ranking more significantly compared to the previous period, although this comparison may serve as illustration only, since there are no statistically significant differences in average ratings of the corruption level in the two periods (2001 and 2006). The Republican Assembly, the Federal Government and the Republican Government changed their respective corruption rating significantly: they went up from the 11th – 13th place to the 5th – 8th place. The S&M Presidency moved from the 18th to the 11th – 12th place, and the S&M Assembly from the 14th – 15th to the 11th – 12th place. A significantly lower ranking was obtained by the Chamber of Commerce, the President of Serbia and his services, Electric Power Industry, Payment Operations Office and the Postal Service; the other institutions did not change their rankings significantly (Table 6)

Table 6 Ranking list of institutions according to average ratings of corruption prevalence in the two periods

	2001		2006	
		Rang		Rang
Judiciary	4.1	**1**	4.1	**2-4**
Customs	4.0	**2**	4.3	**1**
Privatization Agency	4.0	**3**	3.8	**5**
Tax Administration	3.9	**4**	4.1	**2-4**
Republican Government	3.8	**5-8**	3.1	**11-13**
National Assembly of Serbia	3.8	**5-8**	3.1	**11-13**
Federal Government	3.8	**5-8**	3.1	**11-13**
Police	3.8	**5-8**	4.1	**2-4**
Ministry of Economy	3.7	**9-10**	3.5	**8-9**
S&M Assembly	3.7	**9-10**	3.0	**14-15**
S&M President	3.5	**11-12**	2.4	**18**
National Bank	3.5	**11-12**	3.0	**14-15**
Chamber of Commerce	3.3	**13-14**	3.5	**8-9**
President of Serbia	3.3	**13-14**	3.6	**6-7**
Electric Power Industry	3.2	**15**	3.6	**6-7**
Payment Operations Office	3.1	**16-17**	3.4	**10**
Armed Forces	3.1	**16-17**	2.7	**16**
Postal Service	3.0	**18**	3.5	**8-9**
Statistical Office	2.5	**19**	2.6	**17**

In which institution is corruption most prevalent?

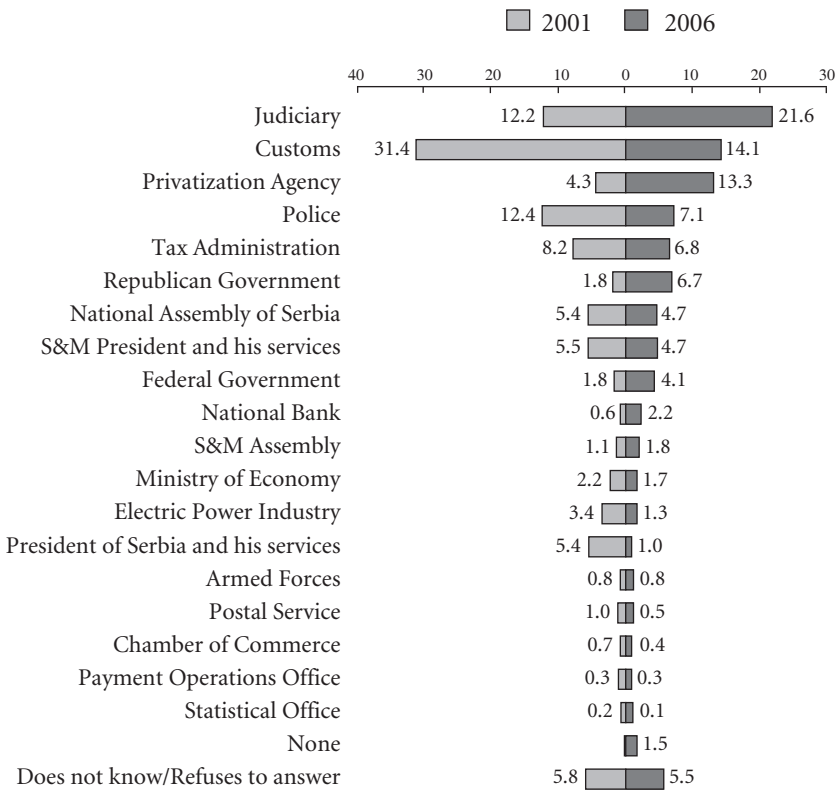
If we wish to get an even more precise picture about the perceptions relating to particular institutions, we may compare the percentages of people who believe that corruption is *most* prevalent precisely in a specific institution, or observe these ratings in time perspective (Figure 11)

This chart shows that in 2006 a significantly higher percentage of people than in 2001 designates the following institutions as *most corrupt*: the judiciary (from 12% to 22%), Privatization Agency (from 4% to 14%), Republican Government (from 2% to 7%), National Bank and the Federal Government (double the percentage). The largest decrease in the percentage of those "stigmatizing" them as a hotbed of corruption is recorded for the customs service (from 31% to 14%), but there are also significant differences as regards the police, Ministry of Economy and the Electric Power Industry. It should be said that the increase in criticism regarding the situation in the judiciary, the Privatization Agency and the Republican

Government may be connected with the accelerated privatization process, and above all with several scandals that attracted most attention of the media, and then the public, during the past period ("Knjaz Miloš", "Novosti" etc.). Moreover, the media attention was focused on some of the "processes of the century" and corruption scandals in which the entire judiciary was exposed to the judgment (and condemnation) of the public.

When the respondents are asked in which institution corruption is *least present,* institutions such as the Statistical Office (29% of the answers), Armed Forces (16%), Postal Service (10%) and the President of Serbia and his services (7%) stand out. The number of those who believe that corruption is least present in some other of the mentioned institutions is almost negligible (below 5%)

Figure 11 In which institution is corruption most prevalent? (% of answers in the two periods)



Which administrative and political authorities are the "proponents" of corruption?

Today, like five years ago, most people in Serbia assess that a predominant part of public officials, administration officers and politicians, at the local as well as the republican level of government, is involved in corrupt activities. It is estimated that *there is somewhat more corruption at the republican level than at the local level, as well as that the government officials are less corrupt than politicians*. All in all, approximately 3/4 of citizens assess that the officials of the republican administration are involved in corruption to a different extent, and 2/3 of the citizens believe the same as regards officials at the local administration level (the community they live in). The predominant mode of answers in both cases is that "most of them are involved".

Table 7 Estimates of corruption prevalence among the government officials at the republican and local administration levels

	Republican administration	Local administration
Almost all are involved	21.7	16.9
Most of them are involved	49.8	46.0
Only some of them are involved	24.2	31.7
Almost none of them are involved	0.1	0.5
Does not know/Refuses to answer	4.1	4.9

There are no great differences in assessments among different social categories, which leads to the conclusion that the estimates were given as an expression of *generally increased criticism towards the (policy of) administrative authority* rather than as a reflection of frustration in the realization of specific group interests. Although the fact that the assessments are generalized does not have to mean that they are unfounded, it should be borne in mind that the attitude towards the government administration is often influenced by political preference and identification, which seems not to be the case here. The judgments expressed by the public in unison, in this case, may mean that the *overall performance* of the administrative authorities is assessed, rather than only the scale of corruption in particular domains. Such an undifferentiated attribution of corruptibility to "most of" the government officials reflects, we believe, a general and generalized distrust of the government administration, which is a match to former predominant statist conscience from the era of self-management socialism. Since many other indicators point to still strong footholds of statist conscience among the people, especially a nostalgia for former paternalistic role of the state in providing for an individual, these findings may be a confirmation of a basically ambivalent attitude of the Serbian society towards

government administration, which is a consequence of its ineffectiveness. Still insufficiently reformed, cumbersome and inefficient administration at the republican and local level – incapable of realizing or protecting the rights of citizens – is perceived as corrupt, which means that the awareness of *systemic* deficiency is replaced by *moral* discredit.

There are no great differences between the two periods in terms of assessments on corruption of the republican and local administration. The estimate on the corruption of civil servants at the local level is slightly moderated, when judging by the average rating. Also, today half as many people refuse to answer such questions, which indicates either a greater openness of the people (less fear?) or greater transparency of institutions (or both).

Table 8 Estimates of corruption prevalence among politicians at the republican and local authority levels

	Republican administration	Local administration
Almost all are involved	23.5	18 .9
Most of them are involved	48.2	45.4
Only some of them are involved	24.0	30.4
Almost none of them are involved	0.1	0.4
Does not know/Refuses to answer	4.2	4.8

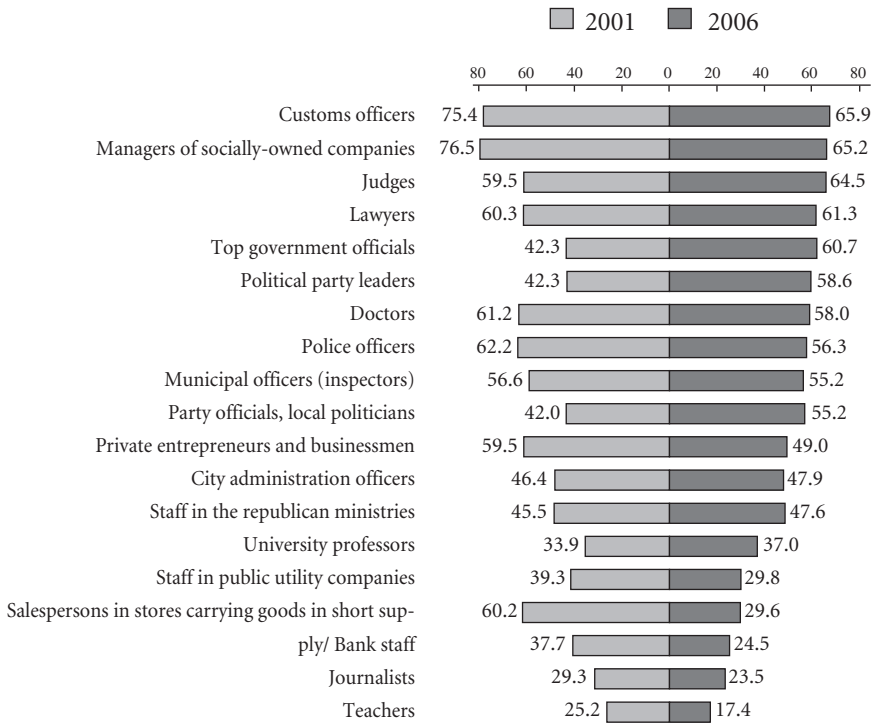
A very similar distribution of answers is obtained when the same question is asked regarding the corruption of politicians in the republican and local authorities. In this case as well there is greater criticism towards the republican level of government then the local, in the proportion of 3/4 vs. 2/3 of those thinking that all or most of the politicians are corrupt. Many people (especially the less educated), we assume, do not distinguish sufficiently between the government administration and political authorities, which may account for the similarity of given estimates of corruption of their members. Assuming that the government authority, at the subjective level, is equated with political authority, we may apply all the previously given interpretations of thus generalized critical assessments of government authorities and political authorities (i.e. the widespread perception of a high degree of their corruption) that exist in the public.

Which groups and professions are the "proponents" of corruption?

According to the predominant idea of corruption the public in our country has, *public officials of all professions are prone to corruption, although not all of them to the same extent*. The percentage of answers confirming *a possibility* that some of the professions stated on the list are prone to corruption ranges between 17% when it comes to teachers

to 66% when it comes to customs officers. Compared to the opinions about the same matter in 2001, there are certain similarities, but also noticeable differences – in the order of the professions as well as in the assessment of their susceptibility to corruption. These percentages are shown in Figure 12 for each profession separately for the two time periods in which the study was conducted.

Figure 12 Estimates of the probability that the following professions are involved in corruption in the two time periods (2001 and 2006)



As shown by these data, corruption is *least associated with teachers* (17% of the answers), and *most associated with customs officers* (66%), *managers of socially-owned companies and judges* (65%, respectively). Lawyers, top government officials, political party leaders, doctors, police officers, municipal inspectors, party officials and local politicians are also classified among those who are believed by the majority of citizens to be connected with corruption (over 50% of the answers). Although the order of professions that are at the very top and bottom of the "corruption hierarchy" remained the same as in 2001, it may nevertheless be said that there were significant changes compared to the perception of the basic "proponents" of corruption prevailing in the previous period. Today, corruption is considerably more often

associated with top government officials (the share of answers increased from 42% to 61%), party leaders (from 42% to 59%) and party officials and local political activists (from 42% to 55%), i.e. political elite on the whole. This finding – that *corruption is associated with political elite to a considerably larger extent than five years ago* – reflects, in essence, the disappointment of the public in all October 5 political actors. Such a disappointment is an unavoidable consequence of former massive, uncritical support to the new authorities and presents simply the other side of former unjustified hopes invested in the future, in the context of mass post-October euphoria. Namely, the public saw in the new political elite not only the proponents of changes that were to bring social and economic progress to the society, but also the guarantors of moral cleansing of the society. Indiscriminate and unjustified generalization of negative judgments about general corruption among politicians point to a conclusion that the present beliefs are essentially one of the manners in which the public resolves the frustrations that are unavoidably caused in the transition period by reform actions and accelerated privatization. The spreading of such stereotypes was also contributed to by several major corruption scandals uncovered in the meantime and, above all, their frequent use as an instrument for the purposes of disgracing and discrediting opponents (in the media) in mutual political fights.

Nevertheless, the public did not remain blind to the attempts to reform particular areas of social life that used to be infamous as highly corrupt. Although still considered to be the proponents of corruption, customs officers, managers of socially-owned companies, private entrepreneurs, staff of public utility companies, salespersons in stores carrying goods in short supply, bank staff, and to a certain extent police officers are mentioned in this context to a considerably smaller extent. We may conclude that the majority of citizens still assess that corruption is less pronounced in the areas where reforms have been initiated or completed; or, in other words, that the reforming of some areas is seen as a successful barrier against corruption.

Perception of corruption in public procurement activities

The present research has confirmed the assumption that corruption is associated most frequently with public procurement activities (tenders), i.e. that it is considered to be their unavoidable accompanying phenomenon, especially in the transition period. Although the new authorities have done a lot in the legal sense to make the public procurement procedures transparent, judging by the average ratings on corruption prevalence in these activities it is still largely *present in all areas* – most in government administration and in organization of public works (3.9), and least in education (3.2). (Table 9)

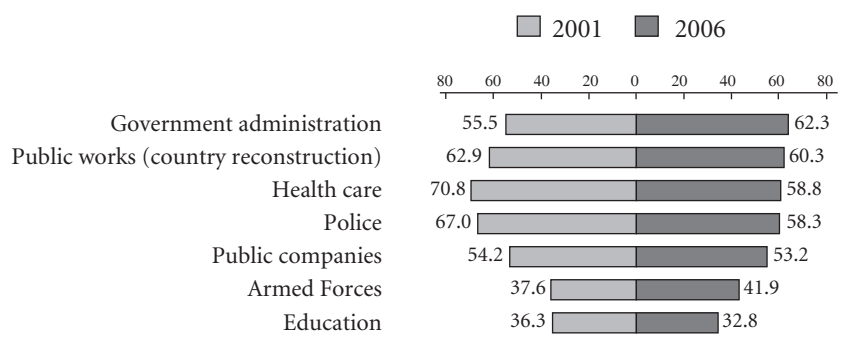
Table 9 Corruption prevalence in public procurement activities in particular areas (average ratings)

	2006	2001
Government administration	3.9	3.9
Public works (country reconstruction)	3.9	4.2
Health care	3.8	4.1
Police	3.8	4.0
Public companies	3.7	3.8
Armed Forces	3.4	3.2
Education	3.2	3.3

Employees in state-owned companies, urban population and the citizens of Belgrade display greater skepticism when it comes to corruption during public procurement in all mentioned areas.

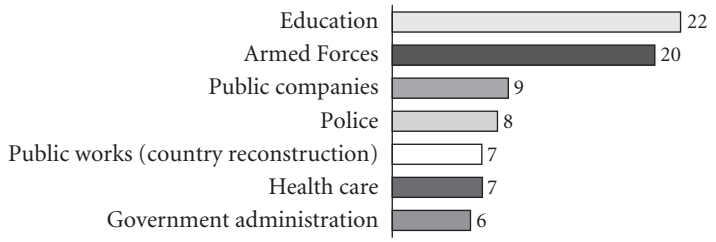
A somewhat clearer picture of the views of the respondents may be obtained by analyzing the data on the percentage of those who believe that corruption *exists, or does not exist,* during conducting tender procedures in each of the mentioned areas. Around two thirds of the people think that corruption is still present in the organization of public procurement in government administration, public works, health care service and in the police; about half of them are of the opinion that corruption has an impact on the results of the tender procedures conducted by public companies; a somewhat smaller number of them assess that it exists in the Armed Forces, while the smallest number of them believe that it also exists in the sphere of education (one third). Compared to the previous period, the number of those who are of the opinion that corruption exists among the top government officials increased somewhat (from 56% previously to 62%), while there was a decrease in the number of those who believe the same about the health care service (from 71% to 59%) and the police (from 67% to 58%) (Figure 13)

Figure 13 Corruption prevalence in public procurement activities in certain areas (% of affirmative answers)



When the data are presented in another manner, i.e. when it is judged by the percentage of those answers *rejecting the possibility of corruption existence during public procurement procedures*, we come to the conclusion that the public, in fact, perceives a *significant improvement of the situation in all areas* compared to 2001 (Figure 14).

Figure 14 Corruption prevalence in public procurement activities in certain areas – percentage of negative answers ("no corruption").

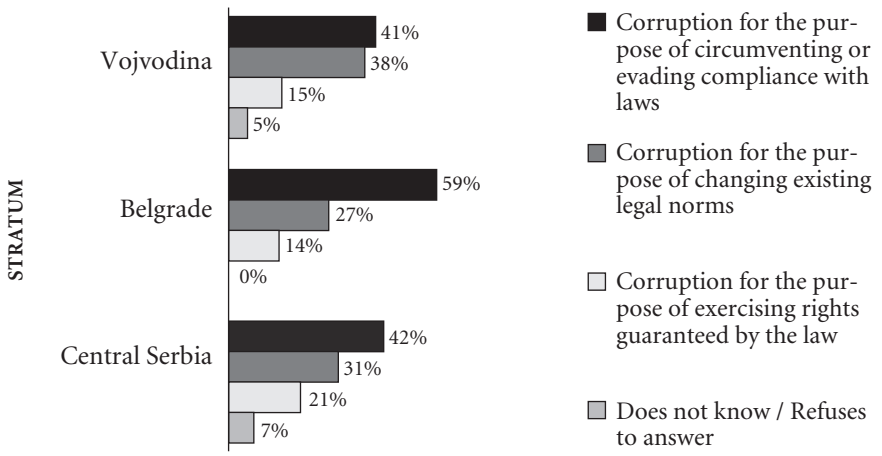


The most common forms of corruption and their social consequences

Although the sources of corruption, especially in the transition countries, are many-sided, its destructiveness (from the aspect of functioning of social institutions as well of the entire society) is significantly intensified then when it acquires its *legal* foothold as well. If corruption is inherent to the characteristics of the legal system not only does a much wider space open for its action but such a practice, covered up by "legalization" is also considerably harder to discover. The public in Serbia seems to show a sufficient sensitivity regarding this connection between legal norms and corrupt behavior. Our study has determined that approximately one half (45%) of the citizens believe that corruption in the society is most frequently used for the purpose of *evading obligations prescribed by the law*; this indirectly speaks about a widespread opinion that there are certain weaknesses, or "errors", of the legal system that make something like that possible. If it is to be judged by the obtained answers, nothing important changed in this respect compared to the earlier period. However, the citizens also share the conviction that the judicial system reform process itself hides in itself the danger of influence of corruption: namely, there is a concern expressed earlier spreading in the society that corruption could have a significant impact on *adopting new laws and amending old laws*; in other words, that the legislative bodies may be susceptible to corruption (previously 24%, now 32% of the answers). The effect of corruption on law adoption is considered by the citizens as potentially the most dangerous, since injustice is legalized in that way, in accordance with the rule "There is no worse tyranny than bad laws".

Corruption that is carried out for the purpose of circumventing or evading laws is emphasized more frequently in Belgrade than in other regions of Serbia (59%), and the corruption whose goal is the change of the existing legal norms is emphasized above average in Vojvodina (38%) (Figure 15).

Figure 15 "Which of the following forms of corruption is most present in our society", by region

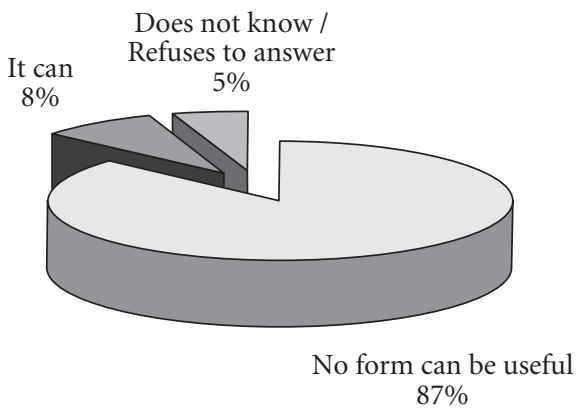


It is interesting that a smaller part of the public (about 1/5), now as well as five years ago, pays attention to the danger of corruption that is used for the purpose of *exercising their legally guaranteed rights.* An assumption could be derived from this that the society tolerates this form of corruption more than other forms. A possible explanation is that individuals often use the fact that a certain civil right of theirs has been violated as a subjective excuse and justification for their own violation of moral norms, i.e. resorting to corrupt practices, which represents yet another confirmation of the assumption that the *system's dysfunctionality itself generates corruption.* It is understandable that this form of corruption, by which exercise of civil rights guaranteed by the law is prevented, affects those whose basic problem is unemployment more than others.

When the answers are observed as a whole, the impression is that there is, nevertheless, a gradual *decrease in the society's tolerance of corruption*: in earlier years 75%, and now 87% of members of the society think that *none of the forms of (or motives for) corruption may be justified or "useful"* (while as few as 8% think there are forms of corruption that are useful to the society). That means that today a noticeably smaller number of people than five years ago deny harmfulness of corruption, justify it or even consider it to be useful.

The citizens of Belgrade (93%) and the population of Central Serbia (88%) show a (statistically significant) higher sensitivity to all forms of corruption than the citizens of Vojvodina (80%). The citizens of Vojvodina, more educated and better off citizens, express a (statistically significant) higher moral cynicism, expressed through the belief that corruption, under particular conditions, may be useful to the society.

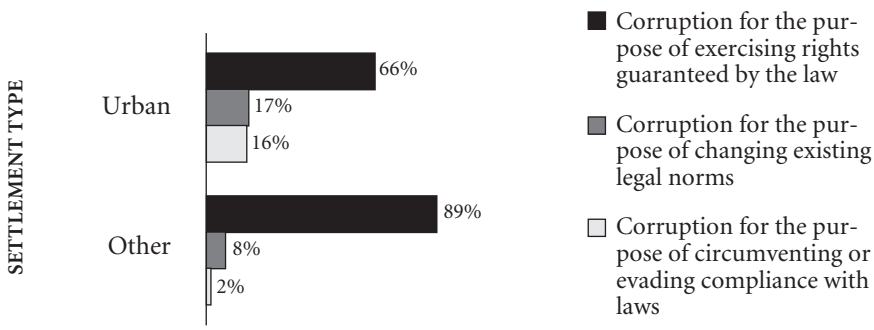
Figure 16 High level of intolerance of corruption: Can corruption be useful?



Further analysis of the respondents' answers shows that the individuals who believe that some of the forms of corruption may be useful to the society (and the total of such persons is 8%) most often refer to the fact that it may have a role of an aid in exercising the rights guaranteed by the law; this finding, in fact, confirms the previously stated interpretation according to which the alleged "rights under threat" represent psychologically the strongest justification of violation of moral norms. In this context, it is rarely stated that the corruption that is the means of circumventing the law can be useful. Besides, rural population (89%), more often than urban population (66%), rejects the idea that this form of corruption may be of use. Adherence to the traditional morals, which is more pronounced in rural population, probably presents the basic mediating factor that determines the level of tolerance of corruption the aim of which is violation of the law.

All in all, the finding that the number of people who believe that *there are no useful forms of corruption* increased significantly in the past period (from 75% to 92%), regardless of how much we consider this expression of opinion to be declarative, presents an indication of a moral recovery of the society.

Figure 17 Which form of corruption may be of use, depending on the settlement type

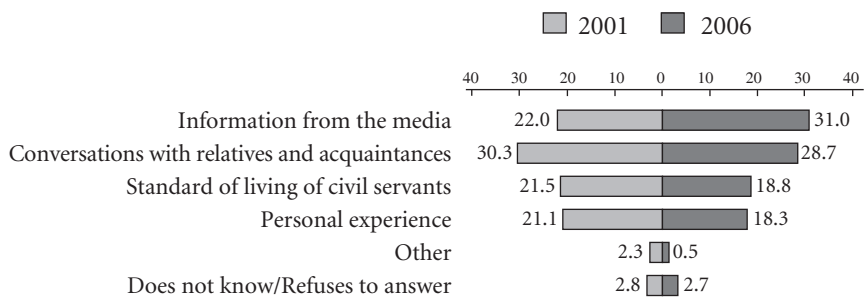


What are the assessments on corruption prevalence based on?

Over and over again, the analysis of public attitudes towards corruption raises the question of what may be concluded about the real state of corruption in the society on the basis of these subjective assessments, i.e. to what extent these estimates correspond to the reality. One of the ways of checking their objectivity, at least partially, is getting to know their empirical basis; this means determining how these assessments are formed, i.e. what social experiences or social mediators play the most important role in their formation. In fact, not until we identify all of the factors that have an impact on the citizens' perception of corruption in the society shall we be able to understand what function it may have from the viewpoint of spreading or preventing this phenomenon in the reality.

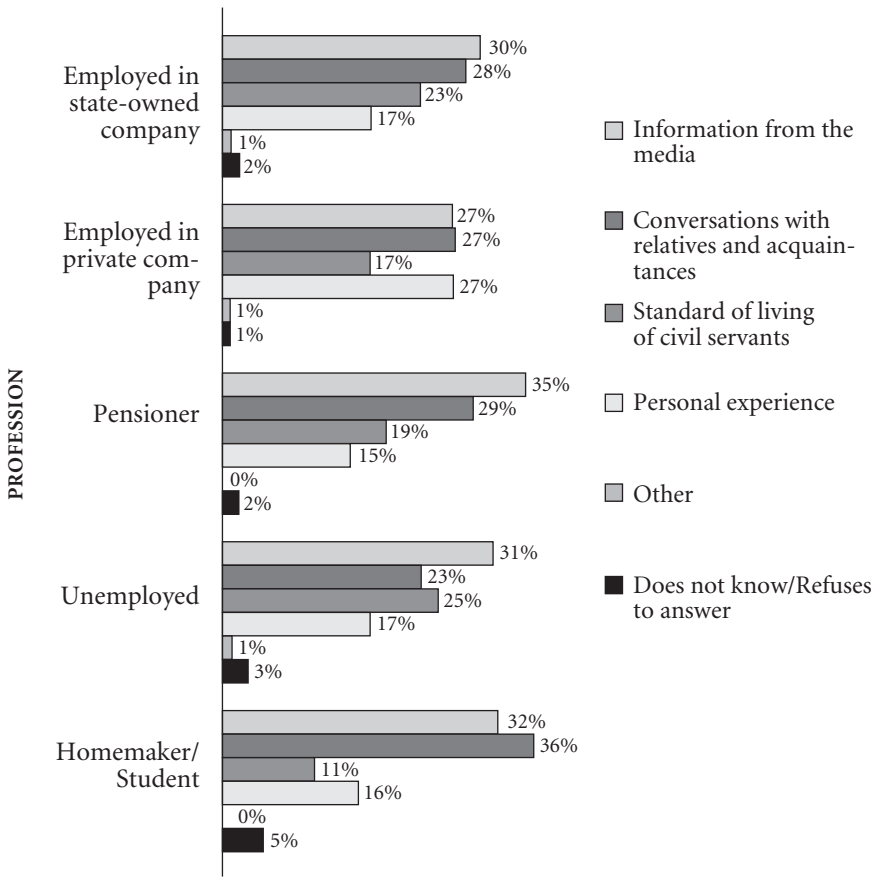
In the past period, the public of Serbia was mostly informed about corruption in two basic ways: by means of the media (31%) and from conversations with the people from their immediate social environment, with relatives and acquaintances (29%). The other two, equally present, sources of information on corruption were personal knowledge about (unjustifiably high) standard of living of civil servants (19%) and personal experiences of citizens with corrupt practice (18%).

Figure 18 What is your assessment of corruption prevalence based on?



Regarding the information base on the basis of which opinions on corruption are formed, there are some noticeable differences between particular social groups. The most significant differences are associated with the profession of the respondent.

Figure 19 Estimates on corruption prevalence by profession



For example, employees in private companies base their assessments on personal experience more frequently than the others. Unemployed respondents are rather informed by observing the standard of living of civil servants, which means that they are more sensitive to noticeable social differences than the other categories. Students rely more frequently on the stories of their relatives and acquaintances.

When the findings of 2001 and 2006 are compared, it can be noticed that today 1/3 of the people, compared to former 1/5, learn about corruption primarily from the media, i.e. *public channels of information on corruption are used more than private channels*. Five years ago, the proportion between these two sources of information was quite the opposite: private information channels were used more frequently than public channels.

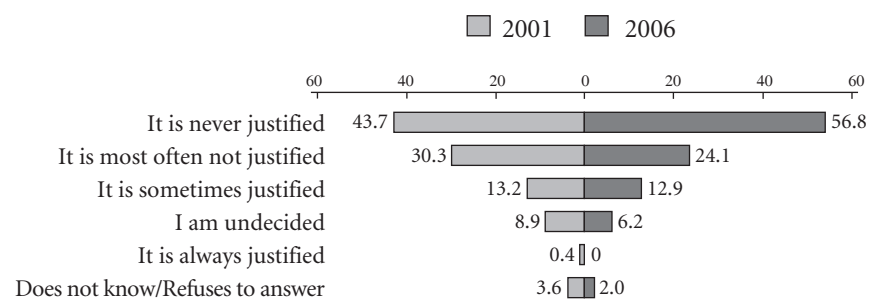
This data reflects the fact that today the media deal with corruption more frequently, i.e. that the *society has become more transparent in this respect.* An important data is also the fact that today a somewhat smaller number of people learn about corruption on the basis of personal experience (i.e. their own involvement in corruption practice), although the differences are not (statistically) significant.

ATTITUDES OF CITIZENS TOWARDS CORRUPTION

Is corruption a justified means of achieving the goal?

The previous analysis of the data about the perception the Serbian public about corruption indicates that the *attitude* towards corruption has changed to some extent as well, i.e. that *tolerance has decreased*. The prevailing – principled – attitude of citizens towards corruption confirms the correctness of the above mentioned assumption. Although the principled attitude that "corruption presents social evil" prevailed in the population earlier as well (and we know that it was not always in accordance with the behavior), now there are quite clear indications that there is an increase not only in the number of citizens who accept this attitude declaratively, but also the level of conviction with which they express their opinion. A direct question "Is corruption, at least sometimes, a justified means for a man to achieve his goal" gives the following distribution of answers:

Figure 20 Do you think that corruption is, at least sometimes, a justified means for a man to achieve his goal?



This distribution differs in several elements from the previous that was obtained in 2001: a. the number of the people clearly declaring that corruption "is *never* justified" has increased; b. the number of those thinking that it is *most often not justified has* decreased; c. *the number of the undecided has decreased* as well. This means that the *negative attitude towards corruption in the previous period has crystallized further*, i.e. that the citizens are more convinced of the

correctness of such an attitude, while their ambivalence and moral disorientation has decreased.

There is, however, a clear division into two social groups that are characterized by different corruption tolerance level. Older people, pensioners and those who are worse off, i.e. who do not have enough money – show an uncompromising attitude in this respect, while the younger (especially the youngest generations) or the wealthier are more inclined to compromise when it comes to corruption. We may interpret such differences in the corruption tolerance level primarily as the consequences of the historical period and social climate in which younger generations grew up: erosion of (traditional) morality and marked social anomy was indeed characteristic of the period that is decisive in the socialization of the young, i.e. their formative years. On the other hand, the older generations were socialized in some other, more stable time, under the influence of the norms of traditional morality that are harder to change and relativize, even in turbulent social periods. Apart from that, different corruption tolerance level of particular social groups is also caused by interest, as well: the groups that see corruption as a relatively efficient lever of their (political, economic) progress are more inclined to tolerate it; those prevented by their own financial position from successful involvement in corrupt practices (the unemployed, the poor) – are inclined to rationalize their corruption inefficiency by adopting more negative attitudes towards corruption.

Is corruption acceptable in principle?

It is possible to illustrate the attitude of Serbian public towards corruption and changes in this attitude in the five-year period by presenting the levels (percentages) and average values of agreement or disagreement of citizens (on a 1-5 scale) with three characteristic descriptive assertions about corruption, which are heard frequently in everyday life (Table 10).

Table 10 Percentage of people agreeing with assertions that express a positive attitude towards corruption

Assertions expressing a positive attitude towards corruption	2006		2001	
	%	Average	%	Average
In order to solve a problem a man should offer a bribe	8	1.7	11	1.8
It is acceptable for MPs and Government members to receive money, gifts or favors	5	1.5	9	1.7
It is acceptable for staff in ministries and municipal authorities to receive money, gifts or favors	4	1.4	7	1.5

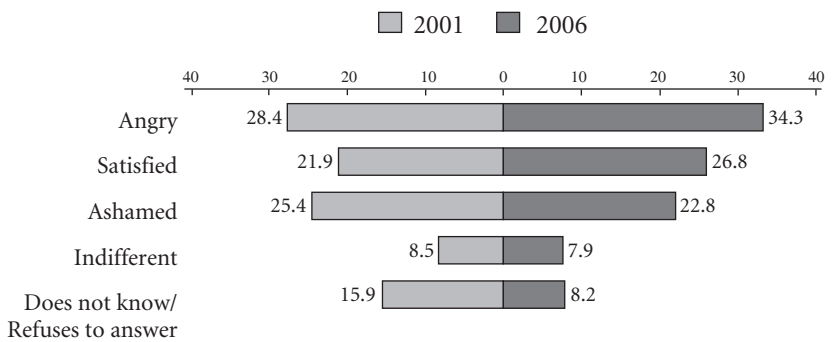
The findings show that the average level of agreement with these assertions in the two periods under observation remained relatively the same

or decreased slightly, but the share (percentage) of people in the population who *strongly* support corrupt behavior (declare that they accept "to a great extent" each of these general positive attitudes towards corruption) decreased significantly. This, in another way, confirms the previously derived conclusion that the degree of prevalence of positive attitude towards corruption (which has never exceeded 10%) has not changed so much, but that the intensity of its acceptance decreased significantly.

Is there moral discomfort when it comes to corruption (the strength of the norm)?

The attitude of an individual towards corruption may be assessed not only based on whether this phenomenon is condemned in principle, but also whether there is an accompanying feeling of moral discomfort that would show that the social norm by which such a behavior is prohibited is completely interiorized. One of the ways to examine whether there is a widely established consensus in the society that corruption is something shameful and morally inadmissible is to observe the reaction of people to the violation of that norm. Judging by the answers obtained to the projective question about how a man feels who has just bribed an official in order to get what he wanted, Serbian citizens react to this situation most often with *anger* (1/3 of the answers), then with *satisfaction* (1/4) *and* finally with *shame* (1/5 of the answers). Compared to 2001, *today corruption causes considerably more anger among the citizens, but also somewhat more satisfaction and less shame, while the percentage of the indifferent remained the same*. Although these findings may be interpreted in different ways, our opinion is that they indicate *strengthening of the norm by which corruption is stigmatized as a prohibited and shameful phenomenon*. Such interpretation is lent additional credibility by the fact that, in the meantime, the share of the people having no developed attitude towards this question (i.e. those refusing to express openly their view on corruption) decreased by half.

Figure 21 "How does, most probably, a citizen feel after giving money or a gift to an official and getting what he wanted?"



When it comes to feelings, today the smallest number of morally indifferent and the largest number of ashamed due to corruption is among the oldest citizens, or pensioners. *The youngest generations, as also shown in the analysis of the previous data, show greater moral cynicism than the other categories – which is manifested through the lack of the feeling of shame and excess indifference*. Also, university graduates show certain ambivalence towards corruption, because they feel satisfied and ashamed to an approximately equal extent in such a situation. We may similarly conclude that, in this respect, there is a clear division between wealthy citizens – whose prevailing mood in such a situation is satisfaction and to a considerably lesser extent shame – and the poorest citizens who express anger due to corruption in an above-average number. Also, the social norm that prohibits corruption seems to have a stronger effect within Central Serbia, in which the traditional morals are more prevalent, than in the developed regions such as Belgrade and Vojvodina.

SCALE AND MANNERS OF INVOLVEMENT IN CORRUPTION (LEVEL OF BEHAVIOR)

Readiness to engage in corruption (projective question)

The attitude towards corruption is not the same thing as behavior in a real situation. However, the study proceeds from the assumption that subjectively expressed readiness to engage in corrupt activities presents not only an indicator of norm acceptance, but also a relatively good basis for forecasting future behavior. Whether this readiness will be realized in reality depends on many factors, the most important of which, at the group level, being the assessment of the society members that corruption in a given social context is an *efficient problem-solving tool*. Thus, there is a close connection between the general perception of society and this type of motivation for corruption.

The survey conducted in 2006, as well as the previous one of 2001, shows that in Serbia *there is widespread awareness of significant potential of corruption as an instrument in a given social context, which causes an increased readiness of people to engage in corrupt activities*. Readiness to engage in corruption (in a hypothetical situation) is expressed by about 80% of the respondents, regarding giving money, gifts or favors to a government official for the purpose of successful solution of a problem. About one half of the sample express a lower level of conviction that something like that may happen ("probably"), while about a fifth of them express a higher level ("very probably"). Female part of the population, older people and pensioners express less readiness to engage in corruption, while the middle generations, respondents with high school degrees and the citizens of Belgrade express more readiness. The wealthiest citizens give ambiguous and inconsistent answers which is a usual

indicator of insufficient sincerity and hiding of their real attitude. The comparison of the two periods shows that *the share of those people in the society who would probably resort to corruption in the form of giving money, gifts and doing favors to a government official for the purpose of solving their problems increased slightly, but this readiness for corruption is expressed at a more moderate level* (Table 11).

Table 11 Are people likely to do some of the following things in order to solve their problem? (percentages of affirmative and negative answers) [9]

	2006		2001	
	Likely	**Not likely**	**Likely**	**Not likely**
To offer cash to an official	78	18	75	18
To give a gift to an official	82	14	81	12
To do a favor to an official	81	15	81	11

This finding, which again supports the assumption about a *decrease in the level of readiness to engage in corruption*, is also confirmed indirectly by the answers to the following, directly asked, question: "If an official requests money in order to solve my problem, I would pay him". The percentage of people answering affirmatively to this question decreased from 13% to 9% (statistically significant), while the average rating of the probability of paying a bribe decreased from 2.1 to 1.9. It also becomes obvious that the percentage of people who are ready to agree to bribery in a situation of exposure to intense corruption pressure decreased, which means that the *resistance to corruption pressure is increasing.*[10] The data show that a smaller number of respondents today than five years ago express unambiguous readiness to comply with a corrupt request (formerly 2.2%, now 2.9%), while more of them express readiness to resist such pressures more decisively (formerly 19%, now 29%); there are also differences in the percentage of those who would pay a bribe only conditionally (i.e., they would not pay if some other possibility for solving their problem appeared). In other words, the number of those who would definitively pay a bribe if they were asked to do so is lower in statistically significant terms, while the number of those who would never pay is significantly higher. The percentage of people who would not pay only if they found some other way of solving the problem (or they would pay if there were no other way) decreased significantly as well. On the whole, once the readiness to

9 "Likely" includes the "very likely" and "likely" answers; "Not likely" includes the "rather unlikely" and "not likely at all" answers.

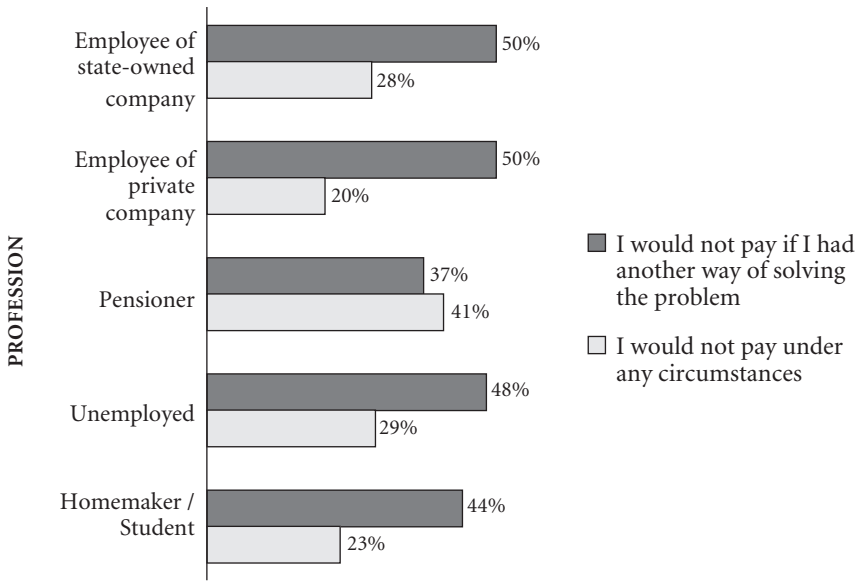
10 The answers of the respondents to the question "What would you do if you had a serious problem, and an official openly asked you for money?"

yield to corruption pressure was expressed by 3/4, and now by just over 2/3 of the citizens of Serbia.

Resistance to corruption pressure is not equally distributed within the population. It is higher among the oldest, pensioners, citizens of Vojvodina and, due to circumstances, among the poorest, while it is lower among the youngest generations, students, employees of private companies, the citizens of Belgrade and the wealthiest.

For what favors would you be ready to pay a bribe?

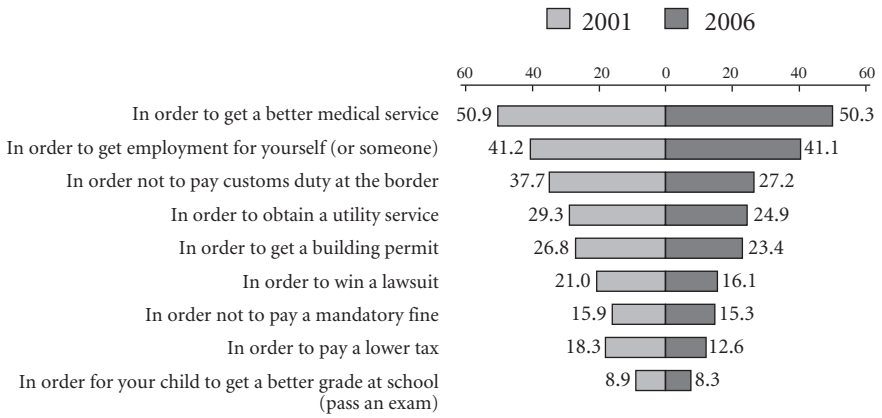
Figure 22 Resistance to corruption pressure by profession: "What would you do if you had a serious problem, and an official openly asked you for money?"



Despite the principled attitudes or the level of readiness to engage in corruption, only the concrete circumstances show how likely it is to appear in real behavior. There are circumstances that, due to their importance to an individual's financial situation, present a challenge which may force most people to compromise their principles. An analysis of such situations points to the problems the solving of which the members of the society are specially interested in and, at the same time, to critical points of corrupt practices. The answers of the respondents show that the people are most prepared to pay a bribe in the following situations: *in order to get better medical service and in order to find employment*. (Figure 23).

Compared to 2001, the citizens' readiness to pay a bribe in order to evade the customs duty, tax payment and to win lawsuits decreased

Figure 23 In what situations would you give a bribe (corruption motives)?



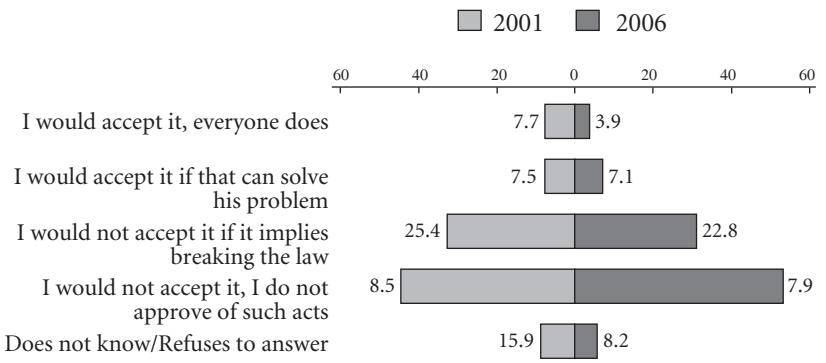
significantly. The increased awareness about the necessity of observing civil obligations in these domains may be associated with a higher degree of propaganda relating to the observance of civil discipline, as well as with the initial reform steps made in these institutions. The highest degree of civil discipline in almost all domains is shown by those over 60 years of age, pensioners and citizens of Vojvodina. The wealthiest citizens, employees in private companies and respondents from Central Serbia, judging by the answers, show a somewhat higher inclination to corruption as regards most of the mentioned situations (five and more areas).

When observing the percentages of those rejecting the idea that they might pay a bribe in any of the mentioned situations (negative answers), a significant improvement compared to 2001 is observed. *The percentage of refusal is higher in all of the mentioned situations, which means that the people show a significantly lower readiness to engage in corruption.* The comparison of the percentage of affirmative vs. negative answers shows that the *provision of better medical services* is the only area in which more citizens accept than reject the idea of getting involved in corruption. This finding is in line with not only what is indicated by everyday experience, but also with the findings of the research that show that health, in addition to the family, presents one of the highest values in our culture. The second critical area that the higher readiness of citizens to engage in corruption is associated with is the currently pressing problem of *unemployment*. To get employment for oneself of for some close person also presents a strong motive to offer a bribe (41% affirmative vs. 50% negative answers).

Readiness to accept a bribe

In the general trend of decrease in the readiness of citizens to engage in corruption, not only does the readiness to offer a bribe decrease, but also to accept it. In an imaginary situation in which a respondent sees himself/herself in the role of an underpaid official who is offered money, a gift or a favor by someone for the purpose of solving their problem, the absolute majority of people reject the idea of corruption (53%); this presents a significant increase compared to the period five years ago (44%). At the same time, the percentage of people showing readiness to accept a bribe went down by half (4% compared to 8%).

Figure 24 Would you accept money, a gift or a return favor for solving a problem for someone?

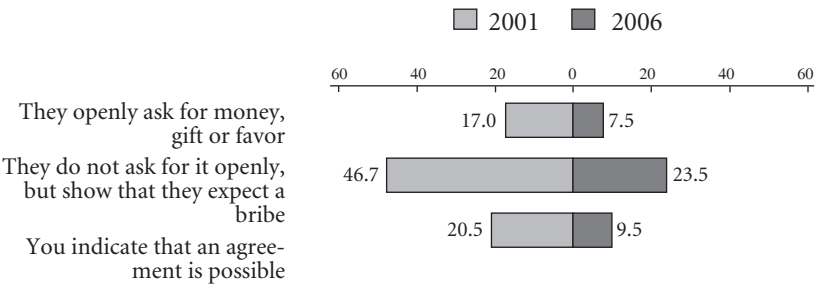


On average, the motives lying in the foundation of corruption rejection are predominantly related to principles ("I do not approve of such acts"), and not merely a product of fear from legal sanction ("I would not accept it if it implies breaking the law"). In other words, in the foundation of rejecting the idea of accepting a bribe is an autonomous rather than heteronymous morality. However, there are noticeable differences between generations in this respect. The generations between 18 and 29 years of age are markedly heteronymous and mostly reject corruption under the pressure of legal standards. The number of those who reject accepting a bribe for reasons of principle (40%) is significantly smaller, while 11% accept such acts if there is a good justification. Unlike these generations, 2/3 of members of the oldest generation (over 60 years of age) and pensioners stick primarily to their firmly adopted moral principles – the norm of honesty – which is incompatible with corrupt activities. When it comes to accepting a bribe, students and the wealthiest citizens refer to reasons of principle somewhat less than the rest of the population. On the other hand, those belonging to the category of unemployed find excuses more frequently than the others for such a practice in the need to embrace in a conformist manner something that "everyone does".

Mutual corruption pressure

Only minority of the respondents report today about their real experiences relating to the existence and intensity of the corruption pressure (expectation to offer or accept a bribe), as was also the case five years ago.[11] Most of them assess that the corruption pressure is implicit rather than open: officials do not ask for money openly, but the respondent interprets their behavior as an expectation to be offered a bribe. When observing only the percentage of affirmative answers to the question whether it has happened in the contact with public officials in the last twelve months, that they asked for a bribe (the "always" and "in most cases" answers; the rest are the "never" and "I do not know" answers), a following pictur is obtaind:

Figure 25 How frequently has the following happened to you in the contact with public officers in the past twelve months? – percentage of affirmative answers 2001-2006



It shows that only 8% give a positive answer to the assertion that in the last twelve months the officials have openly asked them for money, a gift or a favor; 24% of them agreed with the assertion that they do not ask openly for a bribe but show that they expect it; while 10% of them "admit" that they themselves have indicated that such an agreement is possible. The comparison of the answers given by the members of different social groups suggests the (already generally known) psychological rule that the attitudes or preferences guide the perception: an above-average number of the youngest categories of respondents state that they have been asked for money, as well as that they have noticed that the officers expected to be offered a bribe – i.e. that they have been exposed to corruption pressure (32%). Also above the average in this respect were the respondents with secondary school degrees, as well as the citizens of Belgrade. The oldest citizens and

[11] In such a case it is never easy to determine with certainty if it is because such experiences are rare or because the respondents hesitate to talk about them openly.

pensioners and the citizens of Vojvodina report the fewest experiences of this kind, and most frequently deny that they have been exposed to corruption pressure. Similar differences among the groups are also recorded regarding the respondents themselves being in a situation to offer a bribe, i.e. exert corruption pressure on civil servants to do them a favor. In the past year, the youngest and middle-aged generations, private entrepreneurs, respondents with average means and (to a certain extent) the unemployed, have found themselves more frequently that the others in a situation to offer a bribe, while the oldest citizens have had the fewest opportunities for this. Moreover, the respondents from Belgrade state considerably more frequently than those coming from Vojvodina that they have had an opportunity to exert corruption pressure on officers.

When observing the percentages of affirmative or negative answers from the two examined periods, a conclusion can be drawn that there is a noticeable decrease in the scale of mutual corruption pressure in the five-year period. Namely, on the one hand, the number of those reporting that officers have asked them for a bribe or that it seemed to them that officers expected something like that, or that they have been ready to offer it themselves decreased significantly (Figure 26); on the other hand, the number of citizens who completely deny such experiences increased.[12]

Exposure to unilateral corruption pressure (Who asked for money?)

Although the majority of citizens deny the experience of exposure to corruption pressure[13] (unilateral corruption pressure), those who confirm its existence attribute it most frequently to doctors or medical staff (19%), and then to policemen (10%), municipal officer (7%) and customs officers (6%) (Table 12).

The answers show that the so-called small-scale corruption is still most present in the health care service and traffic police (traffic violations), and probably also in the operations related to the work of municipal inspection services. The structure of those complaining the most about particular professions indirectly confirms such conclusions: corruptibility of policemen is emphasized primarily by the young respondents and employees in private companies, while corruptibility of municipal officers is emphasized by the wealthiest.

Corruption pressure decreased in 2006 compared to 2001 in case of all categories of officers, which is seen from the following survey:

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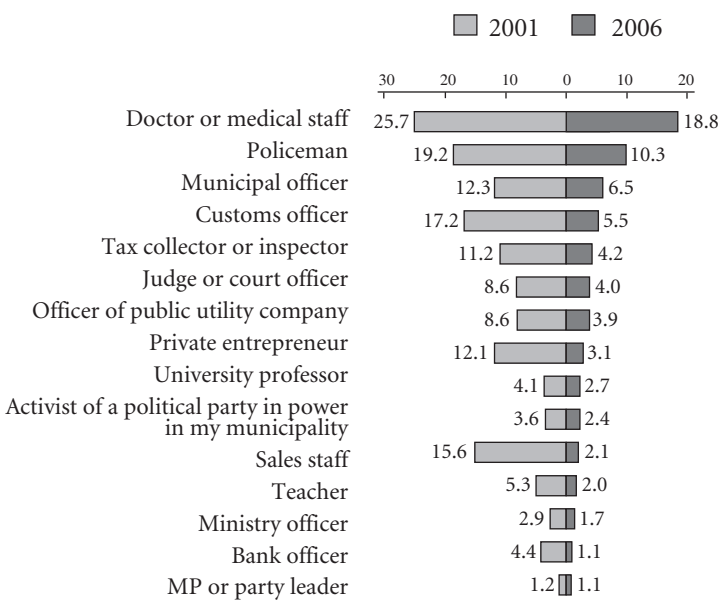
12 Thus the percentage of the respondents denying that they have been asked for money increased in five years from 70% to 84%, while the percentage of those denying that they themselves have been ready to offer it increased from 66% to 82%.

13 Between 58% and 74% of them deny that they have been in a situation to be exposed to corruption pressure by the mentioned professions.

Table 12 Have you been asked for a bribe (money, gift, favor) in the last twelve months by…?

Corruptors	% of answers
Doctor or medical staff	19
Policeman	10
Municipal officer	7
Customs officer	6
Tax collector or inspector	4
Judge or court officer	4
Officer of public utility company	4
Private entrepreneur	3
University professor	3
Activist of a political party in power in my municipality	2
Sales staff	2
Teacher	2
Ministry officer	2
MP or party leader	1
Bank officer	1

Figure 26 Have you been asked for a bribe (money, gift, favor) in the last twelve months by…? – percentage of "Yes" answers

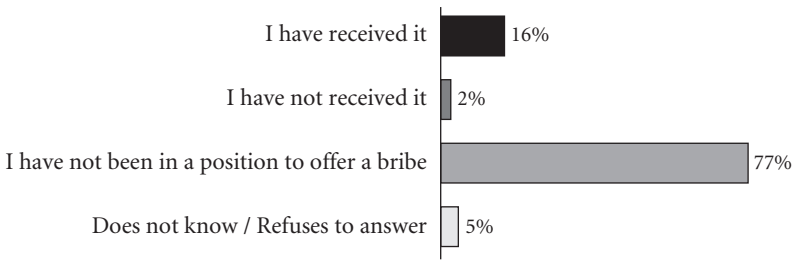


Specific experiences in connection with corruption practices

Has the citizen obtained the favor that he paid the bribe for?

From the answers of the respondents it may be concluded not only that the number of situations in which it is necessary to give a bribe decreased by also that *corruption is a less efficient lever for solving problems today than it was five years ago*.

Figure 27 Have you actually obtained the favor if, in the last twelve months, you were forced to give a bribe to a public official (of if he asked for it)



Previously 65%, and today 77% of the respondents claim that in the last twelve months they have not been in a situation to give a bribe. Of the 23% of the respondents admitting that they have been in such a position to offer a bribe, only 16% (formerly 27%) state that they have obtained the favor they had paid for. The most efficient in realizing their goals by means of corruption were the employees in private companies, the wealthiest and those with secondary school degree: this means that an above-average number of the members of these categories (between 20% and 27%) state that bribing has had a satisfactory effect, while a somewhat below-average number of them claim that they have not been in a situation to offer a bribe at all (for example, 64% of private entrepreneurs give such an answer compared to 77%, which is the average).

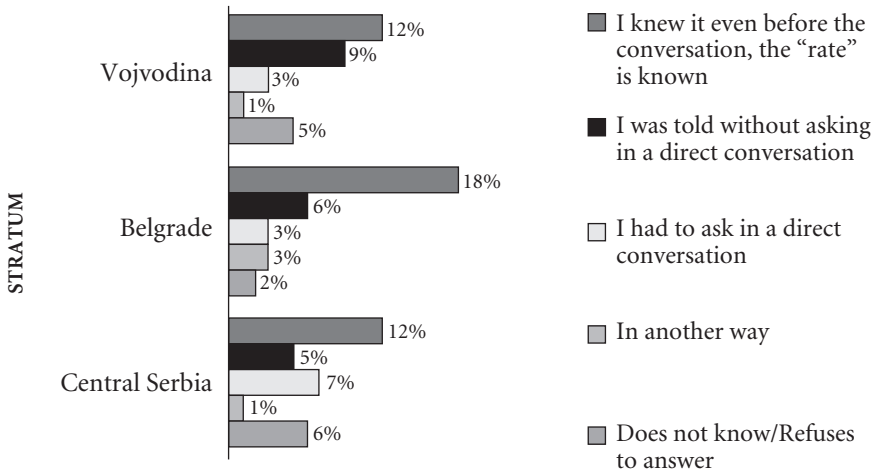
Is the payment made at one or more places?

The citizens' experiences with corruption show that, when a bribe is paid, it is usually paid at one place only (14%), and less frequently at two (2%) or more places (2%).[14] The necessity of paying at more than one place (two places) was emphasized by the youngest, private entrepreneurs, respondents with secondary school degree and the citizens of Belgrade. In the situation of multiple bribing, the officials are more

[14] The rest of the answers to 100% consist of those who have not been in a situation to pay a bribe (77%), or who refused to answer the question (5%).

frequently (in 3/4 of the cases) of a different rank (for example, operatives and their managers) than of the same rank – which presents the trend also recorded five years ago. Also, there are not many changes regarding the fact that the "rate" is known in advance in giving a bribe, i.e. that there is an established norm about the value of each corrupt transaction. In some regions of Serbia such a norm is more "rooted" than in the others: for example, more respondents in Belgrade (18%) than in Vojvodina and Central Serbia (12%) report the existence of such a predefined rate.

Figure 28 If you were once forced to pay a bribe, how did you know what sum of money you had to pay?



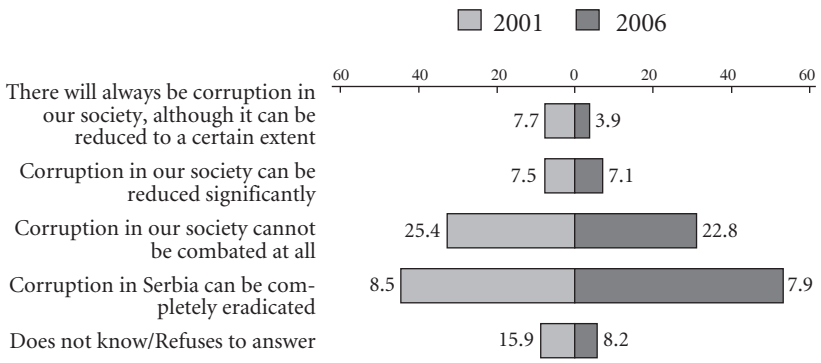
As seen from the data, the employed and highly educated respondents are better informed about the existing "rates" than the others. About 6% of the respondents state that the "rate" was communicated to them in a direct conversation, while 5% of them state that they themselves had to ask how much they had to give.

The comparison with the answers from the previous period shows that, in this respect, something has nevertheless changed, in the sense that *the predefined amount of bribe ("rate") is less known in the public today than before*. The meaning of this finding may be in the fact that *corruption is carried out more covertly today, i.e. that the corruptors are less open in exerting corruption pressure*. The other side of this conclusion is that, gradually, with establishment of new legal regulations in the fight against corruption, new moral standards are being established that make its spreading more difficult.

Possibility of combating corruption in Serbia

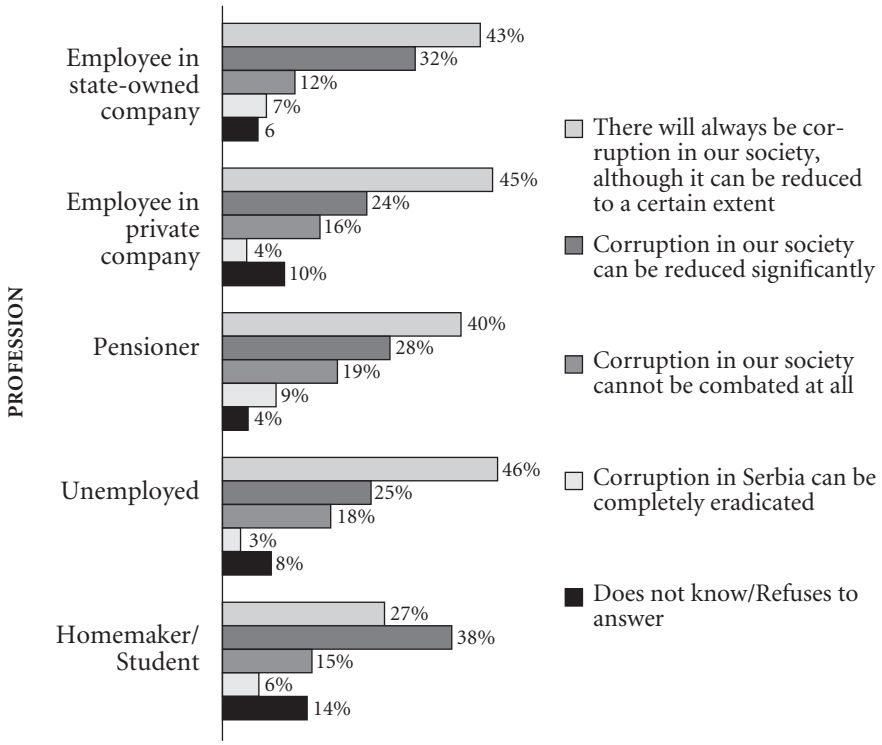
The perceptions of corruption the public in Serbia has are "colored" to a significant extent by political orientations of the members of different social groups. High politicization of the society contributes to increased subjectivity (i.e. lack of objectivity) in attributing the responsibility for spreading as well as combating corruption. The data about what the citizens think about the measures that are being implemented (or should be implemented) in the fight against corruption indeed confirm the assumption that the attitudes of the public are insufficiently consistent. Although the previous analysis so far points to a conclusion that the public more or less shares the belief that corruption in Serbia is decreasing, *the assessments relating to the possibility to combat it further indicate an increased pessimism* (Figure 29).

Figure 29 "When it comes to corruption in our society, which of the following opinions is the closest to yours?"



Generally speaking, today, like five years ago, the citizens are relatively divided regarding the question whether, and to what extent, it is possible to combat corruption in this society. The percentage of the citizens who believe that corruption can be reduced only "to a certain extent" remained the same (40%), as well as of those who believe that corruption in Serbia can be completely eradicated (4%-5%). However, the number of those who think that it is possible to a "significant" extent decreased somewhat (from 40% to 30%), while *the number of the people who think that corruption in our society "cannot be combated at all" increased significantly* (from 9% previously to 17%). Although there are small differences among different social groups in the estimates of the possibility of combating corruption in our country, *the poorest strata show the largest pessimism* (Figure 30).

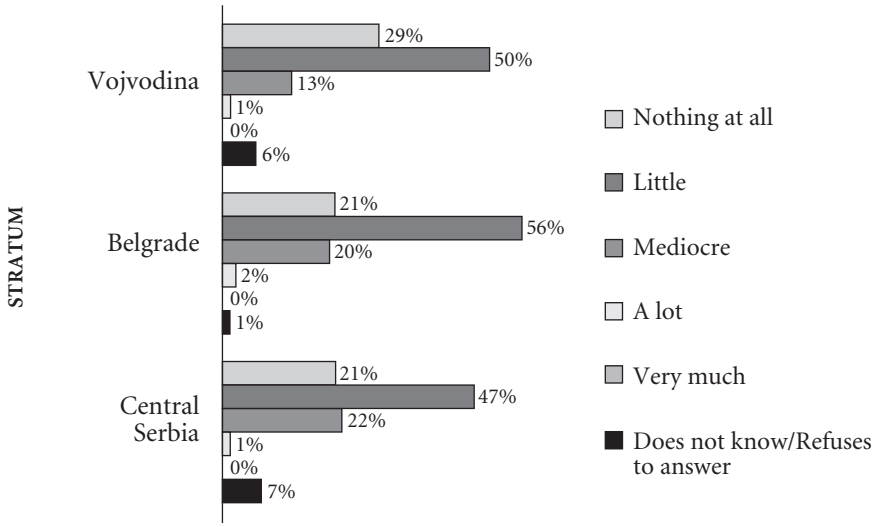
Figure 30 "When it comes to corruption in our society, which of the following opinions is the closest to yours?"



Government efficiency in combating corruption

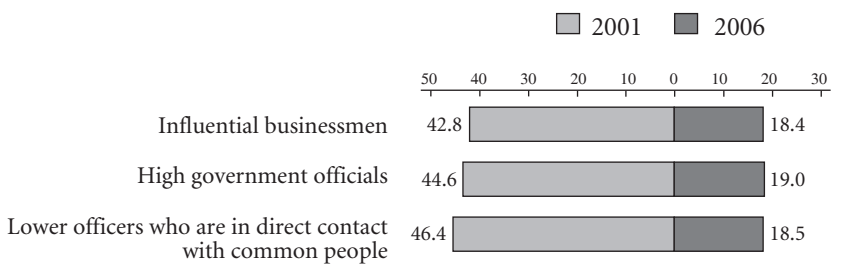
To the direct question: "Has enough been done regarding corruption combating in Serbia in the past five years?", half of the respondents answer that "little" has been done in this respect, one fourth of them – "nothing at all", while one fifth of them are of the opinion that the efforts have been of an "average" intensity. *As few as 1% of the citizens estimate that "a lot" has been done in combating corruption in the past five years*. These assessments indicate a general dissatisfaction of the citizens with the performance of the new authorities, and a disappointment that is, in our opinion, an unavoidable consequence of former, excessive, expectations from social and political changes. The direct criticism the citizens direct to the new authorities is significantly more severe than it could be assumed on the basis of their indirect assessments about the level of corruption before and after the change of government of October 5. Therefore we believe that these assessments speak more about the attitude towards the authorities than about the attitude towards the problem of combating corruption. As shown by the Figure below, the citizens of Vojvodina show a greater dissatisfaction in this respect, which may also be interpreted as their more critical attitude towards the authorities in their province. (Figure 31)

Figure 31 Has enough been done regarding combating corruption in Serbia in the past five years?



However, when the assessments from the two periods are compared, there is no doubt that the *performance of the democratic authorities in the fight against corruption is seen in a considerably more favorable light compared to the Milošević's period*. However, the citizens' enthusiasm towards the new authorities, i.e. their confidence in this respect was *significantly higher in the period immediately after the upheaval than it is today*. Thus, eight to ten times as many people believe that the former government of Đinđić and Živković did enough in combating corruption compared to the previous Milošević's period, while only five times as many of them think that the present, Kostunica's government is putting enough efforts in this sense. Significant differences in the assessments of performance of the two democratic governments in the fight against corruption may largely be attributed to the fact that the citizens use different frame of reference for their comparisons: namely, the performance is assessed as significantly higher when the comparison is made in relation to the period of Milošević's rule (Figure 32).

Figure 32 Is the present government investing enough efforts in eradicating corruption among…? – percentage of affirmative answers



The performance of the present government in the fight against corruption is assessed as better when it comes to combating corruption among influential businessmen and high government officials, and somewhat worse when it comes to lower officers who are in contact with "common people". This means that *the efficiency of the authorities in combating large-scale corruption is assessed as better than in case of "small-scale" corruption*. On the whole, the number of the people who think that the new authorities still have not done enough to combat corruption slightly prevails. The citizens of Belgrade and poorer citizens stand out in terms of the criticism they direct to the new democratic authorities, whereas a significantly lower criticism is shown by the youngest generations (18-29 years of age) and relatively wealthier members of the society (Figure 33)

Figure 33 Is the present government investing enough efforts in eradicating corruption among…? – negative answers by age 151

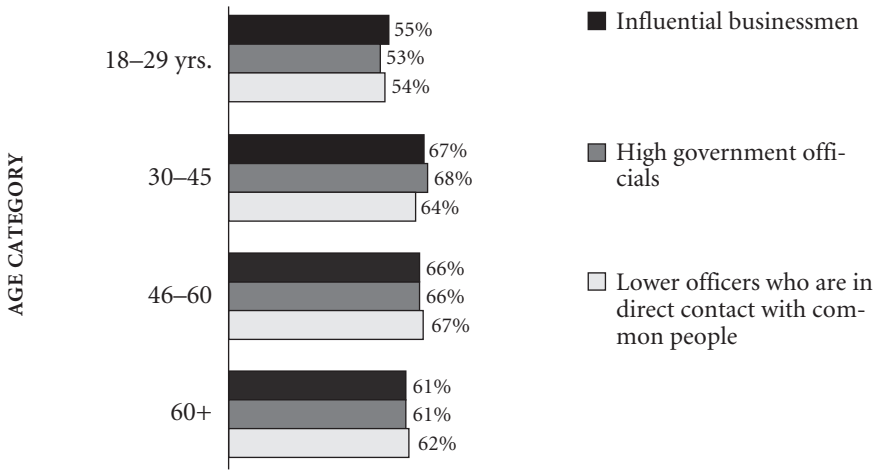
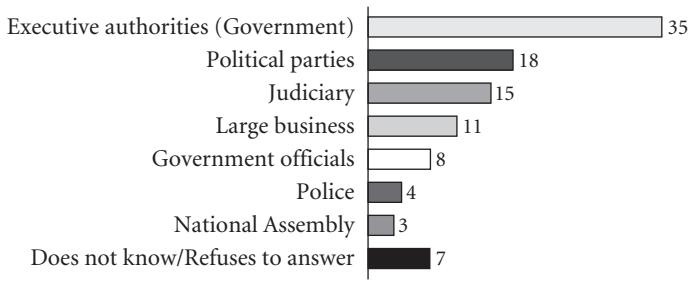
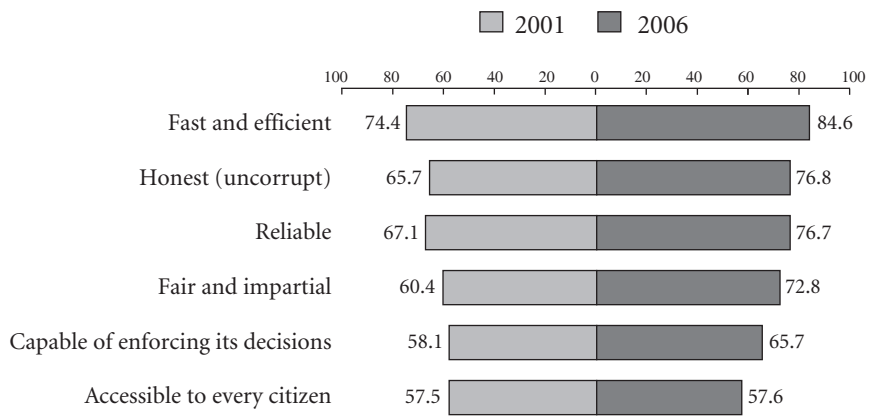


Figure 34 What structures represent the main obstacle to successful fight against corruption?



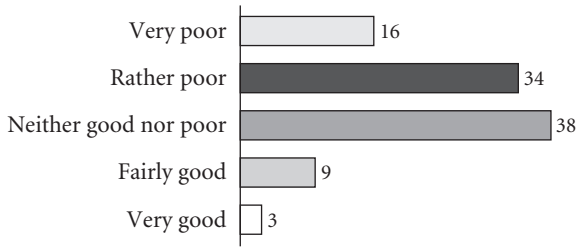
Within the criticism directed to the present democratic authorities, a certain number of citizens see the greatest obstacle to combating corruption precisely in their structures. In this sense, most frequently mentioned are the following: executive authorities (35% of the answers), political parties (17%) and judicial bodies (15%). When it comes to the judiciary as the centre of fight against corruption, significant changes are observed in the assessments of the respondents compared to the previous study. On the one hand, it is assessed somewhat more frequently today than before that the judiciary is available "to a sufficient extent" to every citizen (35%:29%), and there are no changes in the opinions on its capability of enforcing its decisions. On the other hand, however, the judiciary is assessed more unfavorably in those aspects that relate to its fairness (20%:28%), incorruptibility (17%:23%) and efficiency (10%:15%). The citizens appear to consider the numerous corruption scandals that have come to light within the judiciary in the past period as the tip of the iceberg only, so they express their lack confidence by generalizing negative assessments to the entire judicial system (Figure 35).

Figure 35 How often do you associate the following terms and assessments with the judiciary? – percentage of affirmative answers in the two periods



Insufficient confidence of citizens in the efforts of the new authorities to cope with the problem of corruption is also reflected in a relatively critical attitude towards the work of the Anti-corruption Council, which is considered to be satisfactory by only a tenth of them. Namely, unfavorable assessments are expressed, although most of the citizens are not informed about the work of this Council at all.

Figure 36 How would you assess the previous work of the Anti-corruption Council?



CONCLUSION

The expectations of the public in Serbia regarding the fight against corruption that appeared with the change of government in October 2000 and formation of the new, first democratic government of Serbia since the period of World War II were enormous. Without getting deeper into the discussion about to what extent these expectations were justified, or based on some realistic grounds, a question arises: to what extent have these expectations been fulfilled? How does the Serbian public in 2006 assess the changes that have occurred in the sphere of corruption prevalence, or fight against it?

The basic methodological problem with the results of this study, which makes it impossible to give an unambiguous answer to the mentioned questions, lies in the fact that the statistical significance of the difference in the frequency of answers could not be tested where it appeared. Because of that, it may be said that these are more a matter of conjecture than empirically supported conclusions. However, it appears, according to the public perception, that corruption prevalence has decreased in Serbia in the last five years. It may also be concluded that the public tolerance of corruption has decreased, as well as that the corruption based on extortion has decreased and that the citizens must commit bribery for the purpose of realizing their own rights.

All this, with a reservation regarding the statistical significance of changes, indicates that Serbia is on the path of transition from a country with widespread corruption to a country in which corruption has been transformed into a not-so-prevalent phenomenon, while corruption transactions have been transformed into transactions of higher value, with collusion of both interested parties, i.e. with violation of rules. Although the recorded levels of corruption, or of its perception, are still far above the desirable, it is obvious that in the past five years advances have been made in the right direction.

III Corruption in Serbia 2001–2006: From the Perspective of Enterpreneurs

INTRODUCTION

In this section of the paper, corruption is seen as an indicator of compliance with the law, both by the government, and by the citizens, namely as an indicator of the rule of law in the societies in transition, as illustrated by the example of the Serbian society. For the empirical analysis of how much it is present, on the one hand, and how the right is exercised and law applied, on the other, we will here give a brief presentation of the thesis we have more thoroughly described elsewhere.[1] Subject to the way the law is applied, violated and developed, there are three main types of corruption.

First, there is the corruption to *exercise a right* (or speed up the process) to which a citizen or a business entity is entitled pursuant to a law or bylaw (without a bribe, a public employee refuses to act upon the application regardless of his obligation to do so).

Second, there is corruption to *violate the law*, namely to exercise a right to which a citizen or business entity is not entitled pursuant to any law or bylaw so that such right is exercised with the help of corruption (for a bribe, a public employee breaks the law even though he is under obligation to act upon it).

Third, there is bribery to *change the law* or bylaw to suit the interests of the corrupter, namely in order to acquire some new right or extend the existing one (for a bribe, the legislative or administrative authority adjusts the law or bylaw to suit the interests of the briber).

The first type of corruption generates petty, and the other two types generate grand corruption (where large sums of money are at play). The first type of corruption is more widely spread, and the other two types are more injurious to the political system of a society. The first is more common with lower ranking officers, and the other two types with higher ranking officials, that is, public employees and members of government (particularly those with discretionary decision making powers with regard to goods and services). The first type of corruption is more easily "caught" in empiric research, and the other two types are almost impossible to catch. The first and second type of corruption are

1 See more: *Corruption in Serbia* (2001), CLDS, Belgrade.

typical for the societies in transition where the rule of law is weak or at a low level, and the third type of corruption is typical for developed Western societies where the compliance with the law is at a much higher level. In the societies with flourishing third type of corruption (corruption to change the law), it is a sure sign that the first two types are declining and that the rule of law, more or less, is setting its foot on the social and political scene. At the same time, this does not mean that the rule of law is deeply rooted – only that businesses and the public behave rationally preparing for the "new" times. And, finally, the second and third type of corruption are shrouded in a veil of secrecy or given another terminological indication to conceal their true nature.

In the case of our country, the first two types of corruption, those meant to exercise a right or to violate a law, are of key importance. This is particularly true if we take into account that the corruption in the exercise of a right reveals arbitrary narrowing, misinterpretation, or stalling in the exercise of the right by the persons (public employees) who are under obligation to fully respect such right, and the corruption intended for the violation of a law reveals, in the first place, the disintegration of the rule of law and massive violation of the law by those whose duty is to respect and enforce it. And, thirdly, corruption to change the law is present in some developed countries as well. Namely, where it is more difficult to change the laws or where they are strictly adhered to, it is more widely spread since the corrupters seek to extend their existing rights or to adjust them to suit their interests. In Serbia, according to the survey conducted in 2006 (which will be described in more detail elsewhere), this type of corruption stagnates. Contrary to this, the first type of corruption, the one intended for the exercise of a right, is showing a considerable decline (petty corruption is predominant here), whereas the corruption to infringe a right is declining, but not sufficiently to change the image that was already created.

SAMPLE

Two empirical surveys were used for the comparative analysis of corruption in the period 2001 – 2006. In both instances, a combination of stratified and quota sample was used. These are the main survey data:

The first survey about corruption was conducted in the first half of February 2001 on a sample of 327 sole proprietorships and companies in the territory of Serbia without Kosovo and Metohia. The survey covered 21% production and 43% non-production sole proprietorships, and 12% production and 21% non-production companies. The structure of the interviewed owners of companies/proprietors was as follows: one shareholder – 83%, two shareholders – 12%, and 3 or more shareholders – 3%. The size of companies, according to the number of full-time employees, was the following: 5 or less employees – 70%, between 5 and 20 employees – 25%, and more than 21 employees – 5%.

The second survey was conducted in April 2006 on a sample of 301 sole proprietorships and companies in the territory of Serbia without Kosovo and Metohia. The sample structure according to the type of business was as follows: 50% sole proprietorships and 50% companies; according to the business activity: production 27%, trade 37%, and other 36%. The ownership status of surveyed sole proprietorships/companies was as follows: private, unlimited liability, single owner – 30%, sole proprietorship-crafts (SZR) – 24%, sole proprietorship-retail (STR) 19%, limited liability company, one owner – 8%, private partnership – 6%, limited liability company, more than one owner – 5%, and joint-stock company, mixed company, and other – 1%. Regional representation of the sample was as follows: Belgrade 32%, Central Serbia 44%, and Vojvodina 24%. The size of company, according to the number of full-time employees, was the following: up to 2 employees – 37%, 3 to 5 employees – 29%, and 6 or more employees – 34%. The ownership structure was as follows: single shareholder – 85%, two shareholders – 12%, and three or more shareholders – 3%. The persons interviewed included: the owner – in 66% of all interviews, finance officer/accountant – in 9%, general manager/chairman – 9%, partner – 7%, manager – 5%, and the director/division director – in 5%.

WHAT CAUSES CORRUPTION

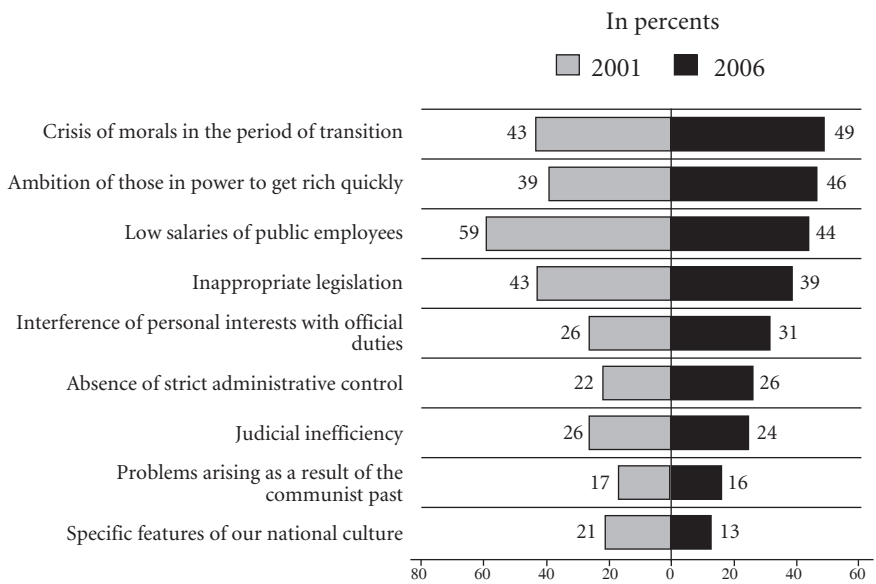
It is a well-known fact that the spread of corruption in every society, Serbian society included, depends on a number of different factors. These primarily include a functioning legal system and the efficacy of the penal mechanisms, the scope and quality of government regulation, interference of the government in the economy, and the scope of transactions controlled by the government or governmental agencies. Then, it depends on the cultural and historical milieu, social and historical circumstances, social values, material aspects of the society, namely poverty and other less important factors which are sometimes hard to identify. Two things are of primary interest for us here: first, what the entrepreneurs think about the factors affecting the existence of corruption and, second, whether there have been any changes in the period of last five years and, if yes, which.

It may be noted in the very beginning that those changes were not great: statistically significant are only the changes in respect of the salaries in the public sector and characteristics of the national culture. In the 2001 survey, the entrepreneurs saw the main cause of corruption in the low salaries of public employees (59%), crisis of morals in the period of transition (43%), inappropriate legislation (39%), interference of legal interests with official duties (26%), etc. The last ranked are the problems arising as a result of the communist past (17%). This can be seen on the graph.

Table 1. Factors affecting the existence of corruption (%) (multiple options)

	Year	
	2001	**2006**
N	327	301
Low salaries of public employees	59	44
Crisis of morals in the transition period	43	49
Ambition of those in power to get rich quickly	39	46
Inappropriate legislation	43	39
Interference of personal interests with official duties	26	31
Judicial inefficiency	26	24
Absence of strict administrative control	22	26
Specific feature of our national culture	21	13
Problems arising as a result of the communist past	17	16
No answer / Don't know		0

Figure 1 The most important factors affecting the existence of corruption (multiple options)



Five years later, in 2006, the first ranked as the cause of corruption, according to the opinion of the entrepreneurs, became the crisis of morals (49%), followed by the ambition of people in power to get rich quickly (46%), low salaries of public employees (44%), inappropriate

legislation (39%), interference of personal interest in official duties (31%), and so on. The last ranked was the specific features of our national culture (13%).

We should underline that now, compared with the period of five years ago, the entrepreneurs less often indicate low salaries of public employees and specific features of our national culture as causes for corruption. Also, the businesses from Belgrade, to a somewhat greater extent than the businesses from other regions, indicated the low salaries of public employees as the cause of corruption. At the same time, larger businesses (companies), in contrast with the smaller ones (sole proprietorships) saw the crises of morals as the cause of corruption.

In general, compared with the period of five years before, the key factors affecting the existence of corruption remained, more or less, the same. There were some shifts that could have been caused by the real changes taking place in the society on the one hand, and different samples, on the other. These changes were not great enough to speak of the changing trends.

THE JUDICIARY AND CORRUPTION

Bearing in mind our thesis presented above, our first task was to see what is going on in the Serbian judicial system. The trust has been one of its key problems for a long time now. The trust in the judiciary (the same as in the case of people in power) depends on a number of different factors, including, inter alia, its performance. And the assessment of its performance, as we will describe in more detail below, depends on what it does in practice, that is, on the assessment of its fairness, honesty, speed, accessibility/affordability, reliability, and ability relating specific court decisions. It is based on these decisions that they will be later assessed by the citizens and businesses. These assessments have so far been mainly unfavourable. Accordingly, it is well known that the Serbian judicial system has been for a long time facing a grave crisis of trust.[2] And this crisis of trust is a result of its acts and omissions over a long period of time.

Almost all previous public polls unambiguously showed a very bad image of the judiciary as seen by the general public and businesses. This is evident in the survey findings shown below (Table 2). This image, except for certain oscillations, has not changed for quite some time. A slight increase of trust was noted in the years 2000, 2001, and 2002, only to go back to its previous level. The oscillations in the the respondent's attitudes, apart from the differences arising from the sample, may be attributed to the expectations of the public (that the judiciary will be more just, honest and efficient) after the political changes in 2000 and

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2 S. Vuković (2003), *Corruption and Rule of Law*, IDN – Draganić, Belgrade; *Corruption in Judiciary* (2004), CLDS, Belgrade

the present decisions of the court(s), particularly those attracting public attention. If we compare the data for 2001 with those for 2006, we will see that in these five years the judiciary became somewhat more just (fair and impartial), more honest and free of corruption, quicker, more accessible/affordable, reliable and able to enforce its decisions (indices are somewhat lower). Although it is true that these changes are not great, they could be encouraging. This tells us that the judiciary does, even though slowly, adjust to modern trends, which means being a reliable actor in any dispute, regardless of the parties involved.

Table 2 Assessment of the judicial system; the judiciary is: (Indices 1-5)[3]

	Just	Honest	Quick	Accessible/ Affordable	Reliable	Capable
General public in 2001	3.59	3.72	3.96	3.57	3.81	3.56
Private entrepreneurs in 2001	3.60	3.79	4.10	3.51	3.80	3.56
Entrepreneurs in socially-owned companies, in 2002	3.19	3.64	3.97	2.63	3.52	3.23
Entrepreneurs in private companies, in 2002	3.26	3.34	4.04	3.40	3.66	3.57
Entrepreneurs in socially-owned, mixed, and private companies, in 2004.	3.13	3.20	3.85	2.86	3.27	3.17
Private entrepreneurs in 2006	3.48	3.62	3.95	3.18	3.57	3.31

The relationship between the legal system and businesses is wrought with controversy. Regardless of the fact that the previously presented data revealed that businesses now have a somewhat better opinion of the judiciary, the following data immediately relativise that. Namely, the findings of our 2001 survey showed that the citizens and businesses expected the new, democratic government to make radical changes at all levels, including, inter alia, the radical changes in the judiciary system. However, these findings did not correlate with what their statements about the level of corruption at the time. This is clear from the

[3] Where "1" denotes means just, fair, …, and "5" denotes unjust, unfair.

comparative data below. Almost two thirds (65%) of all businesses in 2001 were of the opinion that the legal system of the country at the time (after the changes) *would uphold* ("fully", "in most cases", and "tend to agree") their contracts or property rights in commercial disputes, even though they said at the time that the judiciary is one of the most corrupted institutions in Serbia. In contrast, slightly more than one fifth (22%) said that they would *not uphold* ("never", "in most cases", and "tend to disagree").

Table 3 Assessment of the court system in 2006; the judiciary is:

	Always	Frequently	Sometimes	Seldom	Never	Don't know /n.a.	Index	Rang
Fair and impartial	2.3	12.6	28.6	32.2	14.3	10.0	3.48	4
Honest and free of corruption	1.7	9.3	25.6	36.2	17.3	10.0	3.62	2
Quick	0.7	7.3	19.6	32.9	31.6	7.9	3.95	1
Accessible to /Affordable by all	8.6	16.3	24.3	30.2	10.0	10.6	3.18	6
Reliable	2.3	9.0	28.6	35.2	14.6	10.3	3.57	3
Able to enforce its decisions	4.7	14.0	30.2	29.6	10.6	11.0	3.31	5

Five years later, the entrepreneurs "cooled down", that is, the difference between their expectations from the judicial system and their perception of its corruptibility is smaller (Table 3). Now they state in 40 % of cases that the legal system would uphold (to a greater or lesser degree) their contract and property rights in commercial disputes and, in contrast, 52% do not agree with this statement to a greater or lesser extent. And that is far closer to their assessment of the judiciary. With regard to their attitude towards the past (in the survey conducted in 2001), for instance, three years before, the situation, in their opinion, was quite the reverse; namely, only 15.3% stated that at that time, to a greater or lesser extent, they would have been supported by the legal system while almost three fourths of them (73%) stated that such support would have been missing. Five years later (the survey 2006), this attitude towards the past (of five years before) was largely toned down and brought to the right measure. This means that here they stated only in 28% cases that their contract and property rights in commercial disputes would have been more or less protected. In contrast, 61% of businesses stated that their contracts would not have been protected even then. That was in line with what they said about the corruption in the judiciary at that time.

EFFICACY OF PUBLIC SERVICES AND CORRUPTION

The efficacy of a society may be measured based on its legal orderliness, compliance with the law (the gap between the promulgated laws and their empirical implementation), and functioning of the system's institutions as such. That is why the analysis of how well they are functioning is at the same time the analysis of how well the state is functioning. The quality and efficacy of their work is at the same time the measure of how well the system's institutions are functioning on the one hand, and how well the political authorities are functioning, on the other hand. For many of them, in addition to the efficacy and timeliness, quality also implies impartiality. Organised and regulated institutions provide for political stability, i.e. they neutralise, or regulate inevitable social conflicts. Public services understood in this way constitute, as it is said nowadays, the logistic support to all businesses. Without their support modern business is almost impossible. They should facilitate, rather than impede (as often happens in our country) entrepreneurial activity, that is, they should create the most favourable and transparent environment for these activities. Besides, the quality of public services, to a greater or lesser extent, has impact not only on the level and quality of investment activity, but also on competitiveness of the economy they are servicing.

Comparative findings of the surveys, namely the average value and ranking of each of these services according to the assessments made by private entrepreneurs, are shown in Table 4.

The above findings of the survey clearly show that private entrepreneurs have absolutely negatively assessed the quality and efficacy of public services. At first sight it might be surprising that this time (in the survey conducted in 2006 compared with the one conducted in 2001) entrepreneurs assessed the quality and efficacy of services much more negatively (the difference is statistically significant in all cases except for the National Bank and the military). In the comparison of median values, they fared worse that five years before: maintenance of roads, customs, EPS (electricity company), health care, police, education, inspection, tax service, courts and the judiciary, local authorities, and national assembly. In contrast, compared with the period of five years before, the entrepreneurs assessed more positively only the following services: heating plants, telecom, postal service, and water supply. In the last survey, the least positively assessed were local authorities, tax service, court and the judiciary, and the Serbian National Assembly. There are no statistically significant differences between the assessments given by sole proprietorships and companies, or between the sole proprietorships/companies involved in different business activities.

Table 4 Assessment of the quality and efficacy of services[4]

	Year	
	2001	**2006**
N	324	298
Customs	4.4	3.5
Maintenance of roads	5.2	2.5
EPS-electricity	4.1	3.6
Health care	4.5	3.2
Heating plants	3.7	4.0
Police	4.2	3.4
Education	4.1	3.5
Inspection	4.3	3.2
Telecom	3.4	4.1
Tax service	4.4	3.1
Courts and judiciary	4.7	2.7
Postal services	3.3	4.0
National Bank	3.6	3.6
Water supply	3.5	3.8
Local authorities	3.9	3.1
Military	3.3	3.5
National Assembly	4.5	2.3

The citizens' and businesses' assessment of the quality of work of the above institutions and services brings to light how much they trust them. What was unexpected is that after five years the distrust in most public services increased.

Aware that the attitude towards the institutions is, for these purposes, polarised, in Table 5 we have presented the percent of positive and negative marks in both surveys.

The Above findings suggest the following:

First, that in 2006, compared to 2001, in most cases a statistically significant drop was noted in the percent of extremely *negative* assessments ("very poor" and "poor") of the operation of individual services. In the case of customs, for instance, the drop is from 36% to 15%; for the police from 43% to 23%; for the military from 40% to 21%; and similar. This is not true for the National Assembly where we now have 49% negative marks, compared with 38% five years ago.

4 Average (1 – very poor, 6 – very good)

Table 5 Positive and negative marks of the following institutions (%)

	Percent of negative marks (1 and 2[1])		Percent of positive marks (5 and 6[2])	
	2001	**2006**	**2001**	**2006**
N	327	301	327	301
Customs	36	15	5	15
Maintenance of roads	74	53	1	9
EPS-electricity	42	22	12	27
Health care	51	31	7	16
Heating plants	19	8	13	26
Police	43	23	11	19
Education	39	17	13	21
Inspection	46	30	12	19
Telecom	21	10	26	43
Tax service	47	35	10	17
Courts and the judiciary	52	41	3	7
Postal services	20	12	27	40
National Bank	24	16	19	23
Water supply	25	17	38	32
Local authorities	36	33	17	15
Military	40	21	28	20
National Assembly	38	49	5	3

Second, at the same time the percent of extremely *positive* assessments significantly rises, depending on the service. Thus, for instance, the percentage for the customs increased from 5% to 15%; for the police from 11% to 19%, and so on. However, in the case of the military, the percent of positive marks fell from 28% to 20%.

The above interpreted survey findings may be attributed to the following causes. Firstly, disappointed expectations of citizens in the transition period 2001 – 2006, which were founded on unrealistic promises given by the then opposition; moreover, the preceding five-year period was fraught with scandals, suspicious privatisations, and evident social disintegration. This social disintegration was, primarily, caused by the suspicious business deals with the government, those aided by classic crime, or tax evasion. Many of these deals were weighed down by the corruptive practices of their main players. Key players in these business "arrangements" were the members of politi-

cal establishment, or persons close to it. For that they are now "punished". The second cause may be sought in the fact that the tax system was being established at that time and many small businessmen (and there are plenty of them in the sample) took it badly and gave negative marks to most governmental services. Thirdly, in the situation where many of this small businesses and companies crumbled every day a little bit more, the government did nothing to protect them. Moreover, regardless of the successful privatisation of the banking sector, according to what they said, the banking loans were inaccessible and overly expensive.

SPREAD OF CORRUPTION

It was found in our earlier surveys that corruption has become a component of the Serbian system, i.e. that it has permeated all the pores of society. On the pages below we will see what the situation is now, five years after the change of government in Serbia.

How common is corruption?

Although for many private entrepreneurs in Serbia corruption is an integral part of their daily business, it seems to be lessening recently. However, for the vast majority (73%) of entrepreneurs, bribe giving is still nothing out of the ordinary (Table 6). Contrary to the year 2001 when almost two fifths of all private entrepreneurs (39%) said that it is *common* ("always", "mostly", or "frequently") for the companies and sole proprietorships involved in "this line of business" to pay extra to "get some things done", now, in 2006 their number fell below one fourth (24%). Namely, in 2001 the number of the respondents saying that is not really common ("never", "seldom", or "sometimes") was 53%, and in 2006 it was 70%. What is particularly striking is that there is a growing number (from 9% to 22%) of those who say that it never happens that they must give a bribe to receive some additional services. This means that almost eight tenths (82%) of private entrepreneurs, according to what they said in the 2001 survey, at least once in their business life gave bribe to a public servant and that, contrary to this, their number now is 73%. If the percents are translated into a common denominator, it is absolutely clear that the degree of corruptibility of public servants is lowering (in 2001 the index was 3.2, and in 2006 it was 2.8), which is, in respect of the deeply rooted corruption in most societies, a considerable drop.

Table 6 How common is it for a company to give some irregular payments in order to "get things done"?

	Year	
	2001	**2006**
N	327	301
sig	0.00	
Never	9	22
Seldom	22	17
Sometimes	22	32
Sum -	53	70
Sum +	39	24
Frequently	27	14
In most cases	9	7
Always	3	4
No answer / Don't know	8	5
Total	100%	
Average	3.2	2.8

It may be concluded based on the above data that bribe giving to public servants is still one of the necessities of doing business. It is still so widely spread that it may be regarded as a general phenomenon.

In our last survey, public servants fared somewhat better than five years before. When these findings are expressed by one synthetic indicator, it is clear that corruptibility, as measured by this indicator, is declining (in 2001 the index was 3.2, and in 2006 it was 2.8) and that this change is statistically significant.

Direct and indirect bribing

The inevitable question is whether the public servants solicit money from their "clients" for their corruptive practices in a direct or indirect manner. This in turn reveals how much they fear the threatened sanctions and how seriously they take the prescribed rules of the game and, consequently, the system of sanctions of the society. According to the 2001survey, they did this directly – having no fear of the sanctions, specifically: "always" in 38%, and "in most cases" 45% of the time.

Five years later this situation is completely changed. Namely, two thirds (66%) say that they have never at all been solicited money or favour by a public servant in order to have something done. At the same time, in 27% of the cases that happened in individual cases. One of the problems with this survey is that it did not cover the "big fish", those which, as Xenofont said a long time ago, tear the net. This also means:

first, that they fear the threatened sanctions, and, second, that even though money or favours are not directly solicited the corruption survives but its mechanisms are growing more complex (stalling the proceedings, inappropriate solutions to problems, and similar – in the case of corruption to exercise a right), and third, in such a situation it is inevitable that the corruption should decline (which will be seen later on in more detail).

Table 7 How often did the public servants directly solicit money, a gift, or a favour?

	Year	
	2001	**2006**
N	327	301
Sig	0.00	
Never	1	66
In individual cases	7	27
Sum -	8	93
Sum +	83	2
Mostly	45	2
Always	38	
No Answer / Don't know	9	5
Total	100%	
Average	3.3	1.3

Certainly, corruption is also present when public servants solicit money in an indirect manner, or expect to receive it. This takes place in many different ways, from asking to borrow some money, through the obstruction (in the case of a service to which the citizen is entitled). In the case of corruption when it is necessary to break the law, the situation is similar ("I must break the law."; "I am taking the risk."). Findings of this part of survey are shown in Table 8.

The findings also suggest that in the 2001 survey, those entrepreneurs who said that public servants "always" or "mostly" expect to receive money, a gift or a favour, made up almost a half (49%) of all the respondents. In contrast to this, five years later (in 2006), they were fewer than one fourth (23%). At the same time, in 2001 only 12% said that public servants "never" showed that they expect to receive money, a gift or a favour while five years later, there were three times as many (35%) such answers.

All in all, the results of the surveys presented in the above two tables also suggest that, in many cases, the corruption in Serbia is declining. Moreover, direct solicitation of bribe is much rarer than indirect solicitation.

Table 8 How often did the public servants show that they expect to receive money, a gift, or a favour?

	Year	
	2001	**2006**
N	327	301
sig	0.00	
Never	12	35
In individual cases	31	39
Sum -	43	74
Sum +	49	23
Mostly	38	20
Always	11	3
No answer / Don't know	8	3
Total	100%	
Average	2.5	1.9

Multiple payments

In the regulated bureaucratised societies it is extremely rare for another public employee to take an extra bribe for the same service. In our country the situation is quite the opposite. Here we have an irresponsible and unprofessional bureaucracy. The bureaucracy that provides services in this manner acquires all characteristics of cleptocracy. The above presented data confirm this notion. However, the situation has somewhat improved in the last five years. The findings of the survey confirm that bribe giving does not guarantee that the "agreed" service will be provided. Namely, in the 2001 survey almost every third (32%) entrepreneur was forced, according to them, to repeat the payment for one and the same "service" ("always", "usually", or "frequently"), while in 2006, not even a fifth (19%) of all entrepreneurs had to do it ("always" or "frequently"). This also means that, according to the 2001 survey, almost two thirds (65%) of entrepreneurs were forced to, at least once in their business life, pay at least twice for one and the same service. Contrary to this, according to the 2006 survey, their numbers slightly declined, to 54%.

It arises from the above that the expansion of the public service apparatus is accompanied with the expansion of corruption, namely that transaction costs rise with the increasing number of employees that need to be bribed. That is why it often happens that for some specific service we have to pay two or more times. A particularly big problem arises when the briber, despite having paid for a service, does not receive that service. Then we have in place the inefficacious corruption and

extremely irresponsible bureaucracy. The empirical data below will show how much has changed in the last five years. Thus, for example, in the 2001 survey, even after the "extra payment" was made, the agreed service was received: "always" in 8% of the cases, "usually" in 40% of the cases, "frequently" in 15%, and "sometimes" in 12%, "seldom" in 3%, and "never" in 1% of the cases. There were 20% of those who did not know or did not answer the question asked. The index value is 2.1. Contrary to this, according to the 2006 survey, the bureaucracy became increasingly inefficacious and unprofessional. After making the "extra payment", the agreed service is received "always" in 11% of the cases, "frequently" in 23% of the cases, "sometimes" in 21%, "seldom" in 8%, and "never" in 8% of the cases. Twenty nine percent of entrepreneurs refused to answer or did not know. The index value is 3.3. The briber does not have the absolute power but rather only a relative assurance that he will receive the service for which he paid. Failure of public employees to provide the service regardless of the fact that they were "paid extra" to do it is caused by the increase of bureaucracy and also because many of them promise what, although "quite willing", they cannot do. A second cause may be sought in the fact that the criminal code sanctions both the bribe taking and the bribe giving. Accordingly, despite the fact that he did not receive the service he paid for, the corruptor is forced to keep silent. The third cause may lie in the fact that people get positions in public services based on "moral and political appropriateness" or loyalty to a political party, theirs or their parents'. For this reason they believe that the position they are occupying is their "historical right" and, therefore, their attitude is that of a person who nobody can touch.

The amount of bribe

One of the questions posed to businesses was: how much do the private entrepreneurs set aside from their annual revenues to bribe public servants? This part of our survey is shown in Table 9. Through this question, contrary to a large number of other questions, one gets really credible data about the spread of corruption.

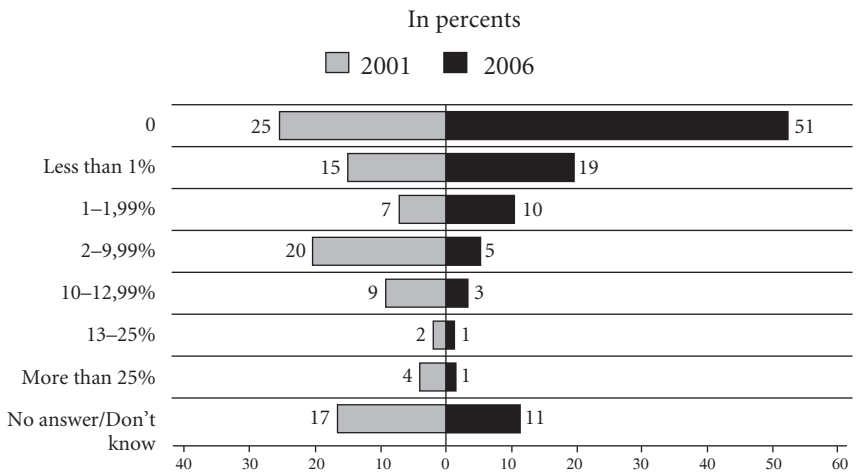
When comparing the data from 2001 with the data from 2006, it is clear that there were some considerable, statistically significant changes. The share of those saying they *do not pay* for extra services rose from one fourth (25%) to slightly more than one half (51%). Accordingly, in the survey conducted in 2001, slightly below one fifth (58%) does it and states how much compared to their revenue it is, while in the 2006 survey, their number was below two fifths (39%). At the same time, the number of those who pay for extra services in the amount below one percent of their revenues grew a bit (from 15% to 19%). (Businesses with the revenues over ten thousand euro slightly more often than smaller ones stated that they make extra payments in the amount below 1% of their revenues.) In the period of five years under observation,

according to what the entrepreneurs said, also considerably declining was the percent of those who set aside larger amounts for bribing purposes. Thus, for instance, the share of those who pay between one and ten percent of their revenues fell from 27% to 15%, and the share of those who those who pay more than ten percent now fell, according to their statements, to a third (from 15% to 5%). No significant differences between private companies and sole proprietorships or between companies in different regions were noted in the two surveys.

Table 9 What percent of your company's /sole proprietorship's revenues is annually set aside for "informal payments"?

	Year	
	2001	**2006**
N	327	301
sig	0.00	
0%	25	51
Less than 1%	15	19
1 – 1,99%	7	10
2 -9,99%	20	5
10-12,99%	9	3
13-25%	2	1
More than 25%	4	1
No answer / Don't know	17	11
Total	100	100

Figure 2 What percent of your company's /sole proprietorship's revenues is annually set aside for "informal payments"?



Is corruption decreasing?

In order to learn whether the corruption in Serbia is increasing or decreasing, we asked an additional set of questions. The comparative analysis of the 2001 and 2006 survey data suggests that things have slightly moved for the better. In the first survey the number of those who believed that things are moving for the better was between 9% and 17%. Five years ago, the number of entrepreneurs who, in respect of the necessary bribe, believed that the situation was *better* that three years before, was between 13% and 37%. According to what they said, the situation was better with regard to the registration of companies, operating licences, connections to the telephone or electricity network, with regard to sanitary inspection and foreign exchange. When it comes to other institutions or services, such as financial police, tax administration, gaining contracts with local authorities, getting the building site (land), planning inspection, gaining contracts with state companies or the Government – the situation has not changed, namely, there is no statistically significant difference.

Table 10 Compared with the period of three years ago the situation with informal payments is …"better"

	Year	
	2001	**2006**
N	327	301
Registration of companies	17	37
Operating licence	17	27
Connection to the telephone or electricity network	12	28
Financial police	16	24
Tax administration	15	22
Sanitary inspection	13	21
Gaining contracts with local authorities	17	16
Getting the building site (land)	14	18
Planning inspection	12	17
Foreign exchange operations and inspection	9	19
Gaining contracts with state company	11	15
Gaining contracts with the Government	10	13

Surely, here, the same as elsewhere, there were some who thought that things have taken a turn for the worse. In the 2001 survey, their number was between 2% and 11%. Those who fared the worst at that time included: connection to the telephone or electricity network, financial police, tax administration, and gaining contracts with a state

company. In the 2006 survey, their number was between 8% and 18% and the worst off were the tax administration, getting the building site (land), and planning inspection.

Table 11 Compared with the period of three years ago the situation with informal payments is …"worse"

	Year	
	2001	**2006**
N	327	301
Tax administration	7	18
Getting the building site (land)	6	18
Financial police	7	13
Connection to the telephone or electricity network	11	8
Gaining contracts with a state company	7	10
Gaining contracts with local authorities	5	12
Operating license	5	11
Planning inspection	3	11
Foreign exchange operations and inspection	4	9
Sanitary inspection	3	9
Registration of companies	4	8
Gaining contracts with the Government	2	8

The second most important is the question: in what spheres of social life is the corruption most present? It is followed by: are there any changes, i.e., is it increasing or decreasing? Comparative findings (expressed in indices) of the 2001 and 2006 surveys are shown in Table 12.

The above findings suggest several things.

First, in 2001 the corruptibility of public employees was the greatest when it came to getting a building site (land), customs clearance, connection to the telephone or electricity network, gaining contracts with the Government, followed by contracts with local authorities and gaining contracts with a state company.

Second, five years later getting a building site (land) was again ranked first, followed by gaining contracts with local authorities and gaining contracts with a state company, after which followed customs clearance and gaining contracts with the Government.

Third, corruptibility of public sector employees is statistically considerably lower everywhere, with the exception of tax administration (it remained the same as in the previous survey). This drop in the corruptibility of public employees ranged more or less between 15% and 30%.

Fourth, the respondents' answers polarised. Namely at one and the same time we have a growing percent of those who believed that the

corruptibility situation is *better* than three years ago, and a growing percent of those who believe that the corruptibility situation is *worse* than three years ago. The reasons for this may lie in the polarisation in the political sphere.

Table 12 Corruptibility of public sector employees (Index 1 – 5)[5]

	Year	
	2001	**2006**
Customs clearance	3.0	2.3
Foreign exchange operations and inspections	2.7	2.0
Tax administration	2.1	2.1
Financial police	2.7	2.2
Registration of companies	2.3	1.8
Sanitary inspection	2.5	2.0
Planning inspection	2.6	2.2
Getting a building site (land)	3.1	2.5
Operating license	2.7	2.2
Connection to the telephone or electricity network	3.0	2.2
Gaining contracts with the Government	3.0	2.3
Gaining contracts with local authorities	2.8	2.4
Gaining contracts with a state company	2.8	2.4

Time needed for bribing

To better understand how widespread the corruption is and how detrimental it is to economic relations, one must ask how much time and energy private entrepreneurs spend on bribing different public servants and para-public servants. This question, along with the one asking them to estimate how much of their revenues they set aside for bribing purposes, yields the most realistic data about the spread of corruption. These data are shown in Table 13.

In the 2001 survey, more than one third (34%) of respondents said that they did not lose any time while in the latest survey there were almost three fifths (57%) of them who said that. However, also slightly decreased was the share of those who stated that they spend less than 1% if their time for these purposes. The number of those who, according to what they said, lose between one and ten percent on bribing fell, from 16% (in 2001) to 10% (in 2006), as did the number of those who stated that they have lost an enormous lot of time (more than 10%), namely their number

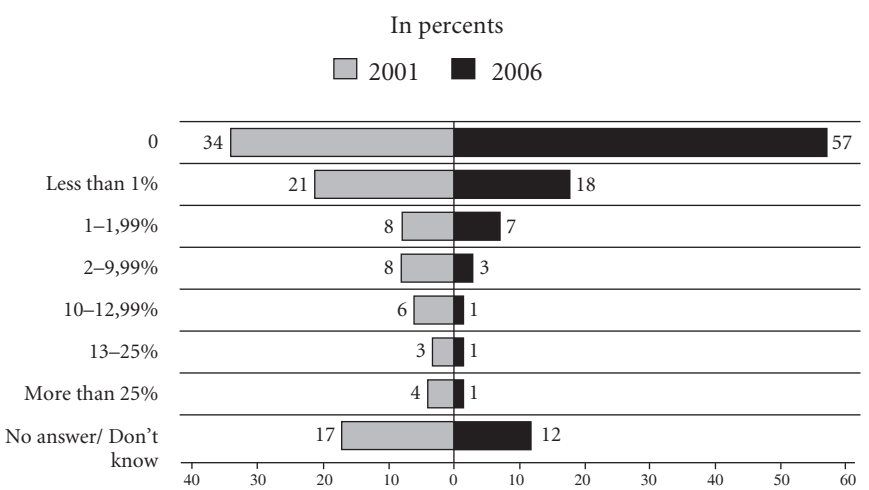
5 Where: 1 – no one is corruptible, 5 – all are corruptible.

has now fallen by more than four times. Neither of the surveys shows statistically significant differences in respect of the type of company, the line of business, or the geographical distribution. The time for bribing is lost, according to the entrepreneurs' statements, primarily on ensuring discretion on the one hand, and because of their attempts to avoid this "extra payment", on the other. However, they say that these attempts are mostly in vain when they come across a corruptible public employee.

Table 13 The time needed for bribing of the public sector employees

	Year	
	2001	**2006**
N	327	301
sig	0.00	
0%	34	57
Less than 1%	21	18
1 – 1,99%	8	7
2 -9,99%	8	3
10-12,99%	6	1
13-25%	3	1
More than 25%	4	1
No answer / Don't know	17	12
Total	100%	

Figure 3 The time needed for bribing of public sector employees



Multiple bribing

To see whether it would be possible to protect oneself from corrupted public employees, we asked the following question: How often is the following statement true: "If one government officer acts against the regulations, I can usually go to another officer or his superior and establish a correct relationship without informal payments". The answers we have received are shown in Table 14.

Table 14 Establishing a relationship with other public servant free of corruption

	Year	
	2001	**2006**
N	327	301
sig	0.47	
Never	13	16
Seldom	28	23
Sometimes	23	25
Sum -	65	63
Sum +	22	23
Frequently	6	8
Mostly	9	7
Always	7	8
No answer / Don't know	13	14
Total	100%	
Average	2.9	2.9

The above survey findings suggest that the protection against corruption within the existing bureaucratic apparatus is not strong. In this respect, nothing has changed in the past five years. Actually, only slightly less than one fourth of respondents, in both surveys, believe that, if a public servant acts contrary to regulations, they can normally ("always", "mostly" or "frequently") go to another officer or their superior and get the job done with no corruption. That such visit can save them "sometimes" or "seldom", is responded by more than a half (51%) of them in 2001, and in 2006 almost a majority (48%). All in all, both surveys demonstrated that there was no great protection against the corruptible public servants in complaining to their superiors or turning to another officer. The complaint to the superior does not work for he is most often "involved" and, even though he does not formally appear before the corruptor, he shares the "spoils" with his subordinate. Sometimes an entire chain is in place where the "profits" are allocated according to the position of the employee on the hierarchical ladder. In such a case,

the lowest position on this ladder is taken by a person who extorts and takes the bribe. It is also known to happen that the "boss" negotiates and takes the bribe and then distributes it to his subordinates according to their respective "contribution" to the job done.

Corruption in political parties

Considering that political parties are important social institutions, it could be useful to see how spread the corruption is within them. How much private entrepreneurs pay to political parties for different illegal actions or to ensure the exercise of the rights guaranteed by law, on the one hand, or adjustment of legislation to suit the corruptor's needs, on the other hand, are shown in Table 15.

Table 15 Payment of services to political parties

	Year	
	2001	**2006**
N	327	301
sig	0.00	
Never	71	90
Seldom	10	5
Sometimes	9	4
Sum -	90	98
Sum +	7	1
Frequently	3	1
Mostly	2	
Always	2	0
No answer / Don't know	3	1
Total	100%	
Mean	1.6	1.2

A cursory look at the above Table reveals that, in the opinion of small businesses, corruption in political parties: first, is not substantial, and, second, that it has considerably lessened in the last five years. Considering that the sample did not include large private companies which have the interest and the power to bribe political parties, the findings of this survey should be taken with a large dose of reserve. The second reason for such a low level of political parties' corruptibility may be sought in the fact that the corruptor directly addresses public servants (without the intermediation of a political party).

TYPES OF CORRUPTION

As we have underlined in the Introduction, in view of the manner in which a the law is applied, violated, or passed, there are three main types of corruption: corruption to exercising a right, corruption to violate the law, and corruption to change the law. Findings of this part of the survey are shown in Table 16.

Table 16 Corruption for the purposes of exercising a right, violating the law, and changing the law (in %)

	Exercising of a right		Violating the law		Changing the law	
	2001	2006	2001	2006	2001	2006
N	327	301	327	301	327	301
Connection to telephone or electricity network	53	38	18	27	5	5
Operating license	46	35	22	29	7	8
Registering the company	38	34	23	29	11	6
Gaining contracts with local authorities	39	24	19	33	6	9
Getting a building site (land)	36	27	28	33	8	9
Gaining contracts with a state company	37	21	20	30	6	6
City-planning inspection	30	27	32	35	9	8
Sanitary inspection	29	25	36	36	9	6
Tax administration	25	27	42	38	10	9
Gaining contracts with the Government	27	22	17	28	7	6
Financial police	25	20	46	40	9	10
Foreign exchange operations and inspection	17	20	29	35	7	5

Comparative analysis of the empirical data from 2001 and 2006 revealed as follows:

First, the corruption in order to *exercise a right*, is declining. This decline is the greatest in the following segments: connection to the telephone or electricity network, gaining contracts with a state company,

gaining contracts with local authorities, and obtaining of the operating licence. Faring a bit worse, but without any statistical significance, were the tax administration and the foreign exchange operations and inspection. This means that, due to stricter sanctions, public servants somewhat less frequently resort to bribe accepting or soliciting for a job they are under obligation to do.

Second, corruption in order to *violate the law* remained, all told, at approximately the same level. However, it has increased in some segments and decreased in others. A slight increase was noted in gaining contracts with local authorities and gaining contracts with the Government, which is followed by gaining contracts with state companies and connection to the telephone or electricity network. This means that it is harder to defeat the corruption at a higher level due to the greater power of both the corruptors and the corrupted.

Third, the corruption in order to *change the laws* or multitudinous bylaws also retained the level of the five years before. Some shifts may be noted in individual areas but they are not statistically significant.

Fourth, this confirms our above thesis that the spread of corruption in transition societies depends on the degree of compliance with the law, both by public servants and the general public.

CORRUPTION AND MEASURES FOR CURBING CORRUPTION

Table 17 What has been done to curb corruption in the past five years?[6]

	Total	Line of business			Region		
		Production	Trade	Other	Belgrade	Central Serbia	Vojvodina
Nothing	22.9	21	28	19	35	16	19
Little	33.9	35	25	42	32	39	26
Moderate amount	32.6	30	39	28	23	36	40
Much	8.0	11	4	10	8	6	11
Very much	1.3	1	2	1	1	1	3
No answer / Don't know	1.3	1	3	0	0	2	1
Average	2.3	2.4	2.3	2.2	2.1	2.3	2.5

6 Where: 1 – Nothing was done, 5 – Very much was done

Measures for curbing corruption must be comprehensive and may range from general to the individual and specific.[7] On the above pages we have seen what measures have been undertaken in the last five years, and in Table 17 we will see how they are, in general, assessed by private entrepreneurs.

Almost one fourth (23%) of entrepreneurs believe that nothing has been done to curb corruption in the past five years, and slightly more than one third (34%) believe that little was done. Contrary to this, only 9% of the entrepreneurs believe that "much" or "moderate amount" has been done to curb corruption. Also, the survey findings suggest that the entrepreneurs from Belgrade are somewhat more sceptical than those from Central Serbia and Vojvodina.

Previous survey findings are not in harmony with the above presented. Namely, to a large number of question the entrepreneurs answered that corruption in Serbia is now noticeably lesser than five years ago. Their answer to this question is that nothing or almost nothing was done to reduce or suppress it. This suggests that their expectations were high on the one hand, and that some of their answers were "politically" biased (expression of distrust towards the current government – which is quite another matter), on the other hand.

Table 18 How do you assess the activities of the Anti-Corruption Council?[8]

	Total	Line of Business			Region		
		Production	Trade	Other	Belgrade	Central Serbia	Vojvodina
sig		0.28			0.06		
1	15.6	17	21	9	26	9	14
2	21.9	22	20	24	24	21	21
3	25.2	18	24	31	22	27	26
4	7.3	12	5	6	4	0	8
5	2.3	1	2	4	2	4	
Never heard of them	18.3	20	19	17	13	19	25
No answer / Don't know	9.3	10	10	8	9	11	7
Average	2.4	2.4	2.3	2.6	2.1	2.7	2.4

7 See *Corruption in Serbia* (2001), CLDS, Belgrade

8 Where: 1 – very poor, 2 – poor, 5 – good

With the aim of curbing corruption, the Government of the Republic of Serbia established the Anti-Corruption Council. Table 18 shows how it is assessed by business entities.

It appears that, in the opinion of the entrepreneurs, the activities of the Council were, to put it mildly, controversial. The survey results showed that: first, almost one fifth (18%) of the entrepreneurs have never heard of it, let alone know what they do. Second, the mark which the entrepreneurs gave to the Council was bad – 2.4 on average. And, third, the Anti-Corruption got the worst mark – 2.1 on average – from the entrepreneurs from Belgrade, and a somewhat better mark from the entrepreneurs from Central Serbia – 2.7 on average. The marks given by the entrepreneurs from Vojvodina coincided with the average.

CONCLUSION

The main causes of corruption in the Serbian society are, in brief, the absence of the rule of law (inappropriate legislation; low level of compliance with the law, selective application of the law, and similar), a still strong influence of the government, and, in particular, of political parties, on economic developments; disruption of social values, namely the anomie and crises of moral values; large unemployment, poverty, and, to a certain extent, absence of visible prospects that have permeated the society.

The survey showed that the trust in many institutions of the society remained at the level from the five years before, or has even decreased in some cases. This reveals how high were the expectations and the disillusionment of businesses and the general public with regard to the political changes initiated in the year 2000. One of the causes of this distrust was the excessive and unrealistic promises given by the people who were the opposition at the time and now are in power.

Moreover, the survey findings unambiguously show that corruption in Serbia has declined in the last five years. Not only one but, as we have seen, dozens of indicators show this. Namely, corruption has declined in almost all segments of Serbian society. When we compare mean values of the spread of corruption, as experienced by the entrepreneurs, they were lower in 2006, compared with 2001, between 15% and 30%, depending on the segment under review.

In the last five years, the greatest drop was noted in the corruption for the purposes of *exercising* a right. In contrast, the corruption aimed at the *violation* of the law, and the corruption aimed at the *change* of the law, have more or less stagnated. This primarily means that, due to the stricter sanctioning policy, petty corruption is subsiding. This, to a certain extent, further means that, in line with our initial thesis concerning three types of corruption, the principle of the rule of law is becoming more prominent, although not to any spectacular extent.

IV Anti-Corruption Public Policies

INDIRECT FIGHT AGAINST CORRUPTION

The creation of a new legal framework is one of the most important transition steps. In essence, through a reform of the legal framework, its modernization and the introduction of new market institutions, the fight against corruption is also waged. More specifically, in Serbia, as in other transition countries, three processes have been evolving in parallel with each other:

- Deregulation and liberalization, aimed at ridding economic life of administration by the state, in order to open up opportunities and materialize prerequisites for the establishment of a market economy; it implied, for instance, the elimination of a system of numerous licenses and approvals for the conduct of business activities, followed by liberalization of relations in foreign trade, and rescission of various laws and bylaws enabling the state to manage economic life.
- Introduction and building of new institutions, typical of a market economy, for example, those which contribute to the building and regulation of the securities market, or to market regulation in the sectors that were previously reserved for the state (e.g. telecommunications, energy), in those cases where the market does not function properly.
- A radical reform of existing institutions, which had to be transformed into forms compatible with a market economy.

Before the October change, Serbia nominally had many institutions of a standard market economy: there were laws on enterprises, protection of property, privatization, bankruptcy, exchanges, securities, foreign investment, taxes, anti-trust legislation, accountancy legislation and the like.

There were also institutions which were formally the same as those in market economies – independent companies, the central bank and other banks, exchanges, duty-free zones, courts, arbitrations, chambers of commerce, trade unions, etc. Companies were, for the most part, freely established although there were certain barriers; there existed the freedom of possession and sale of assets; competition among economic actors was recognized. Still, the Serbian economic system was in no way a market economy in its standard sense despite all the above. As a rule,

laws were bad and often not implemented, and the state and politics assumed, in an informal and unlawful way, the role of an arbitrator who exerts a decisive influence on all economic flows. Likewise, the existing laws were just superficially aligned with the market economy principles. By reviewing the laws in detail (and in this case the devil really is in the detail), one could see a wish of the government to regulate, control and supervise. Of course, a consequence of widespread government intervention based on discretionary powers was highly prevalent corruption.

A standstill in transition, followed by its reversal during the 1990s, left Serbia with the legacy of almost all negative mechanisms of the functioning of the economy in the previous period and with new ones that were added: dominance of inefficient social and state ownership; discrimination against the private sector; dominance of politics over the economy; transformation of companies into social welfare centers, which brings about laxity in financial discipline; abuse of the police and the judicial system, which only contributed to a general rise in the crime rate and corruption; reduction of the market to the goods market, while the markets for money, foreign exchange, capital and labor were semi-legal, and their prices usually administratively set; bankruptcy legislation was not applied to major companies; accumulation of tax arrears was a commonplace; the administrative distribution of foreign exchange and loans from reserve money on privileged terms to favorites from business circles was a rule; the concept of a closed economy (import substitution) continued to prevail; financial relations were governed by debtors, rather than by creditors and the like. Those nominal market institutions were obviously not functioning.

The situation regarding the economic legislation was very bad. There were several types of laws; most of them were badly drafted and structured, allowing overly free and incorrect interpretations by government agencies to the detriment of companies; likewise, most laws were deliberately restrictive, in order for government agencies to be able to exercise discretion in going after law violators; numerous laws enabled individuals to get rich on the basis of monopolistic benefits of different kinds; the few decent laws were not applied, such as, for example, the bankruptcy law; laws were often substituted with government decrees, which was unconstitutional; by virtue of its decrees, the Serbian government often regulated the subject matter falling in the competence of the federal state; moreover, it sometimes acted as if there were a regulation granting it the right to intervene, although that was not the case.

It is not an exaggeration to say that lawlessness prevailed in Serbia; hence a chaos in economic life was an inevitable consequence. Practically no one abided by the laws, partially because they were non-implementable and any insistence on their application would have brought economic life to a complete standstill, and partially because it was a way to show favor to individuals from the ruling regime at the expense of other actors. In such a way, a situation was created in which

nothing was certain, where the only motto was "Find the best way out of an unclear situation". Taxes were not paid, contracts were not honored (debts were not paid), the state was used as an instrument for enrichment, many did not live by working and being entrepreneurial, but as parasites, at somebody else's expense. Rather scarce resources were redirected from the productive ones to those unproductive, allegedly for the sake of social peace. Socially and state owned assets became the subject of epochal plunder. Such squandering and abuse of money was financed not only from current revenue, but also from the existing capital and new foreign borrowing, when a creditor could be found (predominantly Russia and China). The unavoidable consequences of weak institutions included uncertainty of doing business, general mistrust, and squandering of scarce financial resources, which resulted in a deep economic crisis. Economic sanctions and wars only contributed strongly to it.

In such a situation, when society at large and the state in general are systematically corrupt and when for every, even the smallest-scale economic activity, one has to apply with a government agency to obtain a license or approval, practically every reform process toward liberalization and deregulation of business operations can be considered to be, in a certain sense, an anti-corruption process. Likewise, a systematic fight against the gray economy can be deemed an anti-corruption activity, since the gray economy persists owing to, *inter alia*, a high level of corruption among those who are "fighting it on the ground" (inspection services, police, customs agencies, etc).

Generally speaking, both Serbian governments of the post-Milošević era can be assessed as governments that pursued relatively liberal economic policies, despite their frequent populist and protectionist rhetoric. Naturally, there were individual inadequate solutions, whose objective was to isolate certain social groups from transition (e.g. the Labor Law adopted by the second government), but in a broader sense reforms can be characterized as pro-market, as reforms which contract the room for corruption by reducing the influence of the state.

Foreign Trade

A policy aimed at protecting domestic producers (protectionism) constitutes a very strong source of corruption, and certainly the strongest source of demand for corruption of customs officers and all other participants in foreign trade transactions. Protectionist policy implies high customs protection, as well as the existence of widespread quantitative barriers to imports (licenses or quotas). Furthermore, hidden non-tariff barriers to imports, such as restrictive technical standards, requirements related to homologation, and extensive phytosanitary and veterinary protection in the case of agricultural produce and foodstuffs should also be counted as protectionism. Such policy necessarily generates considerable demand for corruption.

Specifically, the higher the tariff rate levied on an imported good, i.e., the more difficult it is to import a good, the stronger the incentive to an importer to avoid the payment of customs duties or to reduce their amount by bribing a customs officer. If, for instance, a tariff rate amounts to 40%, and a shipment is worth EUR 1,000,000, in principle, it pays the importer to pay for the exemption of customs duties, in the form of corruption, any amount lower than EUR 400,000, since he will thus appropriate rents. If the tariff rate goes up to 50%, the mentioned amount of potential corruption, i.e., of potential demand for corruption, goes up to 500,000. And an increase in that amount also increases the number of customs officers willing to offer the service of corruption. The equilibrium amount of corruption goes up, both in terms of the volume of transactions performed, and in terms of the total amount of bribes. Naturally, a cut in the tariff rate creates an opposite effect. If, for instance, the tariff rate is 1%, there will probably be no demand for corruption.

All the above also applies to non-tariff barriers to imports; furthermore, they by their very nature open even more room for corruption. A regime of import licenses for a particular good inevitably leads to a drop in, i.e., the restriction on the total imports of the observed good. It means that only importers with licenses specifying the quantity of imports allowed per single transaction may import the permitted quantity of a good. Since such licenses result in restricted imports, total supply is artificially (administratively) brought down (supply is lower than the supply that would be a result of equilibrium on the free market), which provides an opportunity for importers who hold licenses to generate rents.

Issuance of import licenses generally does not fall among the tasks of the customs administration, but what falls among them is checking, during the customs clearance procedure, whether the importer has a proper license for importation of the good in the shipment (in the envisaged quantity). If the importer has not managed to obtain an import license from the competent ministry (regardless of the manner in which such license is obtained – legally or by bribing civil servants in the ministry in charge of foreign trade), the problem can be resolved in a very simple way: by bribing a customs officer, who will not determine the actual situation then, but rather let the shipment enter the country, despite the fact that there is no import license in the documentation. The same findings also apply, more or less, to quotas and technical standards. If the importer has failed to obtain such a license, the only remaining option for him is to nevertheless, and in contravention of the applicable regulations, import goods by bribing the customs officer.

Of course, the higher the non-tariff barriers to imports, that is, the more restrictive the licensing and quota allocation policies, the higher the potential rents which importers could appropriate, hence the higher the demand for corruption, i.e., the amount of the bribe they

are willing to offer either for the grant of the license or for illegal entry of the shipment.

Yet another case of a complicated procedure which boosts corruption is the one related to the existence of a large number of different tariff rates applied to similar goods (tariff numbers). Under such conditions, there is a very strong incentive to corruptors to have the goods they are importing misclassified, by bribing customs officers, into (incorrect) tariff numbers with much lower levels of tariff rates, i.e., customs duties. Complicated and non-transparent decision-making procedures and/or conduct of business of the customs agency inevitably leave broad discretionary powers to customs officers, which then sets the stage for their corruption, because they can facilitate a favorable outcome for the importer who is willing to bribe them through their biased discretionary decisions.

In four years of transition, Serbia has gone through four stages of foreign trade liberalization: (i) initial liberalization of foreign trade in 2000 and 2001; (ii) further, unwillingly pursued, liberalization with a view to achieving harmonization with Montenegro; (iii) a reversal of measures adopted during the period of harmonization with Montenegro, insistence on non-tariff protection mechanisms with a view to reducing a rising trade deficit and an ever louder rhetoric about the need for protection against uncontrolled imports, with concurrent processes of (iv) applying for membership of the World Trade Organization, signing numerous bilateral agreements on free trade with neighboring countries (which subsequently evolved into CEFTA), and launching the EU Stabilization and Association Process, which was subsequently suspended.

The basic objective of the initial liberalization in 2000 and 2001 was to eliminate all non-tariff barriers (quotas, licenses), to reduce the spread of tariff rates (the number of tariff rates was reduced to a mere 6, ranging from 1 to 30 percent), and to simplify the overall foreign trade system as much as possible. It can be assessed that this first stage had a strong anti-corruption feature. Amendments to the Foreign Trade Law of December 2000 have eliminated a large number of administrative barriers to trade by removing numerous unnecessary controls, including a minimum value of fixed assets of a company, the annual fee for the registration of trading companies in the amount of DM 1,000 and the obligation to report each foreign trade transaction and pay a tax on import/export transactions to the Federal Ministry of Foreign Economic Relations, etc.

Further liberalization of Serbia's foreign trade regime was initiated in 2003 by the Action Plan for Harmonization of the Economic Systems of Serbia and Montenegro. Through the harmonization process, the average level of tariff rates in Serbia was somewhat reduced, thus bringing the average tariff rate in Serbia closer to the average in other transition economies. The adopted liberalization measures were met with a great amount of odium, even from economic policy makers themselves.

Hence, with the coming into power of a new government, the reversal of all the measures adopted in 2003 had been immediately announced, to be actually materialized after the adoption of the twin-track approach in the negotiations between the EU and Serbia and Montenegro on the Stabilization and Association Agreement in October 2004. Part of the standstill in liberalization is certainly a consequence of lobbyist pressures from some domestic producers whose efficiency is so low that they cannot successfully face the competition from abroad; however, the fact that such practice is also accepted by newly arrived foreign investors should not come as a surprise.

In parallel with the strengthening of protectionism and an announcement of the non-tariff protective measures introduction, Serbia has continued to negotiate the membership of the WTO, make use of preferential treatment in trade with EU countries and expand free trade with countries of the Western Balkans.

Integration into the world economy is a key to Serbia's further economic growth, which will inevitably lead to further systematic lowering of the degree of protection. Essentially, it is in line with the trend of attracting foreign direct investments, which certainly do not need measures intended for "nascent industries", although they will not hesitate to take advantage of them if they exist. Therefore, it is in the interest of Serbia to make its policy and pace of opening exogenous, meaning independent of future parliamentary elections, future ministers and, most importantly, independent of the influences of lobbyist groups, which have so far not only hindered attempts at liberalization, but also systematically reversed it. In that manner, a possibility is opened up to, for instance, finally lift the monopoly on oil imports. It was introduced way back at the beginning of transition, but its lifting is still uncertain, despite dozens of announcements to that effect.

One of the areas that have remained largely non-reformed is the area of qualitative import restrictions, such as sanitary and veterinarian restrictions. Under the Food Safety Strategy, this area is regulated by 14 laws, 62 rulebooks, 4 decisions, 3 orders, 1 decree and 2 sets of instructions. Serbia continues to apply a very restrictive regime of food imports, which is reflected in the fact that all imports are tested on several different grounds, which significantly increases the costs of imports, thus introducing possibilities for corruption.

Public Finances

It is only natural that public finances, on both the revenue and the expenditure sides, are one of the main generators of corruption – administrative and political alike. Tax policy – which taxes will be levied, in which amount and manner – has far-reaching consequences for corruption. As in the case of customs, demand for corruption predominantly depends on the level of taxes. However, other factors, such as the type of the tax, the methods for determining the tax base

and for identifying taxpayers, can each also contribute to the expansion or contraction of the room for corruption. In addition to corruption, unsound tax policy also results in the emergence of the gray economy, which, in turn, spurs new corruption and creates a powerful interest group of people whose interest tax reform would not serve. Likewise, on the expenditure side, the spending of public monies opens up possibilities for corruption. A good and efficient Public Procurement Law is one of the main anti-corruption mechanisms here, but definitely not entirely sufficient. From the viewpoint of reduction in corruption, it is necessary for the system of public finances to be sound, simple and transparent.

The soundness implies the keeping of the tax rates at a relatively low level, comparable with the countries in the region, for the purpose of preventing smuggling and the gray economy, as well as the refraining from providing tax incentives which, according to the idea of economic policymakers, stimulate taxpayers to act in a desired manner instead of allowing market criteria to influence their behavior. The soundness also implies restraint with respect to the proportions of redistribution that is in the domain of public expenditure policy. It further requires a careful choice of target groups that will be granted subsidies and/or transfers. The reasons are the same as in the case of tax policy. The minimization of the influence on decisions by individuals, who, against this backdrop, can direct their efforts toward creating conditions to be granted subsidies, instead toward productive economic activities through which they will earn their income by themselves. Likewise, the existence of unclear procedures for access to subsidies strongly boosts corruption.

The simplicity implies that it is necessary to incur certain costs for every type of revenue, including tax revenue. In the case of tax collection, there are direct and indirect costs. Direct costs are those incurred due to the existence and work of the tax administration, while indirect ones are those borne by the taxpayers in the discharge of their tax duties, which are transaction costs in their economic essence. The simplicity of the tax system minimizes both direct and indirect costs and increases net tax revenue. Similarly, a simple system of public finances implies reduced possibilities for discretionary decisions and generally less contact between the state and the economy.

The transparency is primarily related to public expenditure policies and its requirement is that taxpayers are, at least in general terms, familiar with the purpose and use of taxes that they have paid. In other words, the general public must be familiar with public expenditure policy, if only with its global indicators, while the budget process should be carried out through familiar and clear procedures and in defined time limits. Once an annual budget is adopted, discretion in the use of public revenue must be minimal.

Serbia embarked upon the transformation of its public finances with a largely destroyed and non-transparent budget system and practically non-existent public revenue and expenditure policies. More

than 40% of public revenue was flowing into numerous extra-budgetary funds which were financed by more than twenty different earmarked levies. By way of example, in 1998, 1999 and 2000 tax revenue (consumption taxes, taxes on corporate income, personal income and property) accounted for a mere third of total public revenue, while around 14% of public revenue was collected from various fees and dues. New public dues were introduced on the strength of by-laws, and in tax laws multiple tax rates and sectoral tax policies were a rule. The responsibility for assessing, collecting, and controlling public revenue rested with three mutually totally uncoordinated institutions – the Republic Public Revenue Administration (Serbian abbreviation RUJP), the Financial Police (FP) and the Payment and Settlement Bureau (Serbian abbreviation ZOP). Tax discipline was almost nonexistent, while selective and biased write-offs of tax liabilities, and offsets, which accounted for as much as 25% of the central budget revenue, were a standard practice. The role of the Ministry of Finance in the budget execution ended at the point of transferring the money into the accounts of budget beneficiaries. Individual budget beneficiaries managed the transferred budget funds independently, or deposited them with banks as "savings". This is how an absurd situation was made possible, with the central budget running a deficit, while budget beneficiaries ran surpluses in banks.

Of course, the lack of transparency in collecting and spending public monies was one of the main sources of corruption in Serbia, and irregularity and unreliability of budget payments, arrears and defaults on liabilities were a logical outcome of such a situation in Serbia's public finances.

When the features of the inherited condition of Serbia's public finances, as well as of the present condition, are compared with the mentioned virtues, i.e., principles of good public finances, huge progress made in the past six years of transition becomes obvious. An indubitable success is the consolidation and stabilization of the revenue side of the public finances and the introduction of the Treasury. A big step was also made in the setting up of a system of public finances which would have the above described virtues. However, there is still a lot to be done, particularly on the expenditure side.

In comparison with the initial situation regarding the criterion of soundness, it could be noted that public finance policy has made tremendous progress, particularly concerning the issue of consumption taxes. For the most part, the introduction of the VAT has brought the system to the level of other European countries.

A similar remark can also be made vis-à-vis excise policy, although from the standpoint of corruption the situation is somewhat more complex here. The first problem is a relatively high level of excises on cigarettes (high in relation to the selling price, not in relation to their levels in the region). The high share of excises in the selling price creates strong incentives to smuggling and corruption, primarily in the

customs service. However, bearing in mind that the level of excises will be increased in the future, the only reasonable policy is to fight customs corruption and to establish better cooperation with customs services of the countries in the region. A separate problem (from the standpoint of corruption) will be posed by the lifting of a ban on the importation of petroleum products. Although this measure cannot be assessed as good from the standpoint of efficiency, the impression is, nevertheless, that corruption, although not reduced, has been at least centralized. Since tax policy of the previous period has obviously opted for taxation of consumption as the main source of income, low tax rates of the corporate income tax and the personal income tax are a good choice from the standpoint of the soundness principle. The greatest challenge in this domain is to continue with the consistent implementation of this law, fully depoliticize the Tax Administration and build IT and other capacities of this institution, which is the most important executive institution in every state.

The greatest success from the standpoint of transparency is the adoption and implementation of a law governing the budget system. The implementation of this law has established a clear budget procedure that is uniform for all levels of government, and made daily data on types of expenditure and beneficiaries of the central budget available. What remains to be done is to do the same in every local self-government unit, and to achieve the ultimate objective of the setting up of the treasury – automatic payments on behalf of budget beneficiaries, which, after the budget has been adopted, should have no discretionary powers in the payment process as such.

A large area which will constitute one of the toughest challenges in the further transformation of Serbia's public finances is the area of local public finances, where the domain of revenue is yet to be comprehensively regulated. Likewise, a lot still needs to be done to increase the simplicity of the tax system, in which there still is more than a hundred different fiscal instruments and even many more individual fiscal forms administered by the Tax Administration.

Finally, a real reform of public expenditure policy is yet to be undertaken. It implies, above all, a complete discontinuation of the provision of subsidies to companies, a reform of the social security system and a true restructuring of public companies. In a word, measures that can hardly be considered popular, which is, after all, the exact reason why they have been constantly put off. And just as public finance policy of the previous period successfully consolidated the revenue side, and in that manner enabled the regular execution of the expenditure side of the budget, thus cushioning a considerable part of the problems created because of the pursuance of structural policies in transition, in that same manner the acceleration of privatization, the implementation of the bankruptcy law and other structural policies have to enable public finances to reduce the pressure put by public spending on the economy and overall macroeconomic stability.

Public Procurement

The field of public procurement is certainly one of the areas particularly prone to corruption. Since in such cases civil servants and politicians are deciding on transfers of public funds to private individuals, it is clear that there exists a mutual interest to avoid taking a decision, which would be in the public interest. Therefore, the public procurement procedure is very complicated in most democratic countries, and the same case is in our country. Moreover, when political criteria are introduced into an already complicated situation, like, for instance, a provision on advantage given to domestic tenderers, the situation becomes even more difficult, and the same goes for the fight against corruption.

- In principle, there are several possibilities for corruption in public procurement transactions:
- In establishing whether something will be purchased or not;
- In specifying the goods/services needed;
- In determining weights for assessing tenders;
- In scoring (tender assessment);
- In the complaint procedure.

The first possibility is essentially related to the appropriateness of a procurement transaction. In situations where there is a small number of potential tenderers, the very decision to purchase something can have certain monetary value (e.g. a purchase of operational systems for PCs). The second possibility for corruption opens up at the point when a specification of a good/service to be purchased is defined. Potentially, it is possible to eliminate competition by making a specification. For instance, by setting a requirement according to which the product must meet a certain standard, while it is already well-known that there is only one tenderer, or a very limited number of them, who can meet that standard. Corruption can also occur in determining weights for different aspects of a tender. If, for example, there are one high quality but expensive and one low-quality but cheap product, it is possible to reject one of these products in advance through the selection of weights for the price and quality.

As for the scoring, points are often assigned to quality aspects; hence it involves a subjective assessment. A subjective assessment, of course, can lead to corruption. Complaint procedures also open up possibilities for corruption.

The purpose of a contemporary public procurement law is to narrow the room for corruption in some of these aspects. For example, the Public Procurement Law can have just a limited effect on the first of the mentioned cases (a decision on whether to purchase something). Naturally, the public authorities and public services have absolutely free rein in taking such decisions, and the only limitation is posed by the availability of funds (Article 24, paragraph 1). The thing where the Law could be of help, but for the time being it is not, is the consolidation of

procurement transactions by different bodies for purchases of the same good/service, as well as the separation of decision-making processes in deciding whether to purchase something or not, and from whom to purchase it. When it comes to the drawing up of a specification for a purchase, every public procurement law, including ours, is also relatively helpless. Since the procurement transactions in question are often very complex and require certain technical knowledge, a public authority has fairly free rein in specifying requirements (Articles 27, 36).

The situation with the choice of weights is similar (Articles 54, 55). In scoring, the situation is even more complex. Namely, if it involves an essentially subjective assessment (such as an assessment of the professional competence of tenderers, for instance), it is very difficult to prescribe the scoring method in a law. On the other hand, in the case of an objectively defined criterion, the situation is very simple and it is difficult to change the decision by means of corruption. Therefore, each decision on public procurement should be based as much as possible on the price and other objective criteria.

Lodging a complaint opens up additional possibilities for corruption. Since the procedure for filing a request for the protection of rights has suspensive effect on a public procurement contract, and since the institution of such a procedure is often very cheap (40,000 dinars, which is a small amount in the case of large procurement transactions), unsuccessful tenderers institute a procedure for the protection of rights in each and every situation, thus often slowing down the whole procedure significantly. The decision-making on the validity of such requests can create demand for corruption.

There is another dilemma related to the Public Procurement Law: should those companies which are state-owned, but operate on the market, be subject to this Law. Under the presently applicable law, the answer is that Article 3, paragraph 1, item g), prescribes that if the public authorities or public enterprises exert a strong influence on business decisions, financing and operations of an enterprise, such enterprise is subject to the Public Procurement Law. Since that constitutes a significant drawback in doing business (additional costs, public announcements of all procurement transactions, on the basis of which the competition can figure out financial plans), competition has a strong incentive to hinder and stall public procurement in state-owned companies. Two examples of companies that are subject to the Public Procurement Law, whereas their competitors are not for the most part, include Galenika and Telekom (at least its mobile telephony part). Another interesting fact is that, despite a lot of speculation that considerable resources were channeled from Mobtel into the accounts of legal and natural persons connected with the family that managed the company, the question of why Mobtel was not subject to the Public Procurement Law was never raised, although it was clear that the state had strong participation in the management board of the company and that Mobtel could have been subject to the mentioned Article of the Law.

From the standpoint of the fight against corruption, at first glance it is obvious that such companies do not have to be overly concerned about their cost management and that conduct of business in conformity with the Public Procurement Law constitutes a barrier to corruption. However, if one takes a better look, a possibility is opened for the competition to obstruct the whole process. It is absolutely clear that the first best solution in terms of an anti-corruption strategy for such cases is the privatization of these companies.

Although the fight against corruption is "permeating" the entire Law, corruption is directly mentioned only in Article 17, which sets out that "A procuring entity shall reject a tender if there is a verifiable evidence that a tenderer has given or promised to a current or former employee of a procuring entity a gift in money or in a non-monetary form, or that the tenderer offered employment or any other benefit, an object or a service that may be expressed in terms of money, in an attempt to influence an action, decision making or the further course of the public procurement procedure."

From this Article, it is obvious that it applies only to the case when the tenderer has offered a bribe, but not to the situation where the tenderer's competitor has offered a bribe in order to prevent or postpone a purchase.

However, as with any other law, the most important thing is the implementation. Two new bodies have been set up on the strength of the Law, the Public Procurement Office and the Commission for the Protection of the Tenderers' Rights. The question of how the Public Procurement Law is implemented can be best answered by providing the following figures: in 2005 there were 80,000 tenderers, 12,000 procuring entities and 250,000 contracts. The number of employees in the Public Procurement Office is about 25 and it is completely clear that the Office cannot, and should not, deal with this problem on its own. The fact that the Supreme Audit Institution has not yet been established further aggravates this whole situation.

Still, although the Law is not implemented in the most efficient way, primarily as a result of ignorance and disinterest on the part of procurement officers in charge of these transactions in procuring entities, an assessment has to be made that the present situation, from the standpoint of corruption, is much better than the one that prevailed prior to the entry into force of the Law. Of course, the procedure is complex and bound to make the job of civil servants more difficult, but that in fact was the essential idea behind the introduction of this Law.

In the previous period several scandals were associated with violations of the Public Procurement Law, which was also expected. The situation is similar in other democratic countries, too. Whenever the government is spending money, possibilities for corruption arise. The objective of this Law is to prescribe which actions are illegal, and it is the job of the police, courts and prosecutorial services to identify and punish the perpetrators. The Public Procurement Law cannot be blamed

for the fact that judicial proceedings have not yet been concluded; the blame is on the institutions in charge of enforcing the Law.

It is true, though, that scandals were often ignited without any solid evidence for them. That was the point when the PR teams of companies that lost in tenders took over and tried to exert pressure through the media and the general public for the repetition of tenders. Naturally, it is difficult to assess when they were right, and when they were wrong.

An additional problem is posed by the fact that a large number of public procurement transactions in the fields of defense and internal affairs have remained "confidential", so one could assume that corruption in these fields is quite prevalent, and at least three scandals from the mentioned fields corroborate the thesis that there is something wrong (the scandals "Mile Dragić", "Satellite" and the procurement of equipment for the Ministry of the Interior from a company in which the then Interior Minister, Dušan Mihajlović, had a business interest). Such a situation produced a kind of transparency which can, as it seems, pose a threat to some other state interests – for example, in the revised 2006 budget (the part related to the National Investment Plan) anyone can see that the army is planning to have five MiG-29s, two attack helicopters Mi-24, and a number of transport planes and helicopters overhauled.

The recommendations ensuing from the above analysis can be outlined as follows:

- to privatize public enterprises and other parastatals that operate on the market as soon as possible;
- to consolidate public procurement transactions (e.g. to purchase goods for social welfare centers in a centralized manner, rather than have each center making its own purchases);
- to set up the Supreme Audit Institution as soon as possible, so that it can evaluate and revise both the procedure for and appropriateness of public procurement transactions;
- to set aside the provision on favoring domestic tenderers, since the procedure for establishing domestic origin creates many opportunities for corruption;
- to introduce provisions on the prevention of the conflict of interest covering all the members of all tender committees which assess tenders;
- to strengthen the stage of contract performance control, with a view to making subsequent alterations of the contract more difficult.

Subsidies

The period from 2000 to date can be characterized as a period in which the state has declaratively undertaken to provide care to all – the unemployed, the employed, persons with an "unresolved housing issue", the young, the elderly, the sick, entrepreneurs, businessmen

and others. Without getting into ideological debates here about whether the state should and can pursue such a policy, we primarily want to analyze the mechanisms by which the state has been trying to solve those problems.

One of the most frequent mechanisms used in the previous period are subsidies. Thus, the state has started to co-finance entrepreneurs through the Development Fund, farmers through the Ministry of Agriculture, people who own no apartment through the National Mortgage Insurance Corporation, subsidies were granted for business startups through the National Employment Service, and guarantees through the Guarantee Fund.

In principle, the state should not be engaged in these activities. Even if there was some kind of need for that in the first years of transition due to an underdeveloped financial market, the financial system could have assumed the financing role in full as soon as after the first 2-3 years of transition. However, seemingly paradoxical, with the development and strengthening of the banking system, the role of the state in financing all kinds of things was growing. The most recent parliamentary election (2007) produced a promise that tens or hundreds of millions of euros would be spent for "start-up" loans, as well as for the payment of subsidies to companies which hired a sizeable number of workers.

Some of these mechanisms are more prone to corruption, some are less. It seems that automatic payment of subsidies per new employee does not create many opportunities for corruption, since these are more or less objectively measurable things. However, "start-up" loans are, practically by definition, a possible hotbed of corruption. The state plans to allocate large sums of money to entrepreneurs-beginners and to assume all the risks of their business operations. The money is supposed to be granted on the basis of a competition, in which a committee should go over business plans and perform the role of the market – deciding on which ideas for business are good and which are not.

Likewise, loans that are approved by the Development Fund of the Republic of Serbia open excellent possibilities for corruption, admittedly not as excellent as in the case of grants, because the amount of the subsidy is just a difference between the interest rate charged by the Fund and the market-based interest rate, not the entire amount of the loan. Still, entrepreneurs are nevertheless able to obtain nominally significant amounts on very favorable terms, particularly if they come from distinctly underdeveloped regions. There are various corruption mechanisms, from direct payments to decision makers, to payments made to the employees of the Fund for the "preparation of a business plan", to the party influence on the members of the Management Board.

As mentioned above, the only way to solve the problem of corruption in granting subsidies is the elimination of subsidies. If the state has extra funds, be they from privatization or from some other source, the first best solution is foreign debt repayment or tax cuts. Subsidies are an

inferior solution from almost every aspect, particularly from the standpoint of corruption, that is, the fight against corruption.

Privatization

Socially and state owned property has "proven itself" as extremely inefficient and very prone to corruption. Simply, under the conditions in which the general manager is not held accountable to anyone for the operation of his company, one can reasonably expect him to be willing to put personal interests before the interest of the company and to purchase materials at higher prices, for instance, while selling the product of his firm at prices lower than the market ones – of course, provided that he was given a bribe. The situation is additionally aggravated in a mixed situation, when both privately owned and socially/state owned firms operate on the market. There is no doubt that all-out and unconditional privatization is the only cure.

The first democratic government of Serbia chose a modified model of standard sales of companies. The distribution of socially and/or state owned capital to all citizens through vouchers was a popular option in East Europe in the mid-1990s, after the fast privatizations in the Czech Republic and Slovakia. However, subsequent developments were not all that successful: it turned out that investment funds, in which most of the vouchers, that is, shares were put, did not function in the intended manner, and therefore corporate governance of privatized companies was not successful either. Serbia had an even worse experience, since huge discounts and gifts in Serbia resulted in workers' shareholding, which is an economically very inferior type of corporate governance.

In other words, the method for the sale of socially and state owned capital was chosen with the idea to try and find the right buyers, meaning those who will make the most out of the companies undergoing privatization (economic resources). For, the standard logic in economic science is that the one who is paying knows why he is paying that particular amount and that the one who has paid the highest price is probably the best in managing these resources. However, the sale as a method of privatization also has one principled weakness: it is slower than voucher systems, since it implies the preparation of each individual company, and that is, particularly in the situation of limited resources in the public administration, a fairly time-consuming process.

Once the concept of the sale has been chosen, then the next step – the sale to majority, strategic investors – comes quite easy. Namely, the alternative is to sell shares through public offerings, which usually results in dispersed ownership and weaker corporative governance. In selecting the privatization model, the government rightfully attached great importance to corporative governance in the post-privatization period, so it opted for the sale of the majority stake (70%) of socially/state owned capital to one investor. This has made possible the assumption of full control of the company undergoing privatization by one

majority owner, who can thus run the company in his own interest without any particular complications. The idea behind it is to facilitate, i.e., make more efficient a very complex process of enterprise restructuring in the post-privatization period.

The experience of not only transition, but also developed countries shows that the principal-agent problem is always very painful and that there simply is no easy remedy. The problem of imposing restraints on the management or the owner having only a relative majority ownership of the company in order to prevent selfish illegal steps, at the expense of minority shareholders, is particularly complex in transition countries, where the necessary institutions (the judiciary, registries, the stock exchange, etc.) are still in the making. In such countries, the reliance on the majority owner is better, since it removes at least part of the principal-agent problem – the one arising from dispersed ownership.

As for corruption, one has to admit that the proposed and adopted sale mechanism is rather sensitive to corruption. Namely, the distribution of shares, be it to the employees or to all citizens, from the viewpoint of corruption, seems to be a better model at first sight. And, in the short run, that conclusion is correct. However, the experience of East European countries, and that of Serbia as well, has demonstrated that, in the long run, such a conclusion is very far from being true. Against the backdrop of a non-existent or maybe nascent financial market, the wide-spread lack of understanding of its role and the manner in which it should function, free distribution of shares constitutes a prelude to all-out plunder and asset stripping. Consequently, even in the sense of corruption, a properly implemented sale mechanism is superior to its alternatives.

Taking into consideration the fears that the process would be burdened with corruption allegations, the Law on Privatization provided for two sale methods, both competitive: auctions for smaller and weaker companies and tenders for larger and better ones, intended for foreign investors. The principle is to sell 70% of non-privatized equity (while the remainder of 30% is distributed free of charge, as mentioned above, to the employees and citizens). It is praiseworthy that the direct agreement between the government and the buyer is not mentioned as a sale method, as it is, although theoretically convenient and seemingly necessary for bad companies for which there is no demand, nevertheless overly risky from the standpoint of the government, since it facilitates – or rather encourages corruption. In such bad companies, one will opt either for organized restructuring or for bankruptcy. The exclusive use of competitive methods of sale was supposed to ensure maximum transparency of the process, i.e., prevent corruption and other underhand dealings aimed at influencing the outcome of a privatization transaction. That is to say, once a public and regulated competition among interested parties is secured under the rules that have been set in advance, then it is really difficult to organize a scam and ensure an unfair advantage for someone.

The orientation of the privatization model regarding the payment for the purchased company is toward cash, immediately after the signing of the contract at that. Still, certain flexibility is permitted. It refers first to frozen foreign currency deposits, whose matured bonds are equivalent to money, while the non-matured ones are also accepted, if there were no buyers for cash or for matured bonds. Second, it refers to time limits: the possibility is also set down for individuals (natural persons) to pay for equity bought in auctions in six annual installments. This was intended to encourage domestic buyers, since they did not have to make the payment for the purchased company immediately; instead, they could make payments over time, out of the company's profits. Yet, this is a risky arrangement, as demonstrated by the experience with several cases, because it enables unconscientious buyers to take over a company without a penny of their own money, strip all the assets very quickly and then leave it to the government to take care of it. There was a time when the centralized character of both the sale of equity and the entire privatization process (everything is done by the Privatization Agency) was heavily criticized. Still, it is questionable whether that criticism is justified. On the one hand, a strong role of the Agency has enabled significant professionalization of the privatization process, which would be difficult to achieve in some decentralized form. On the other hand, the distribution of privatization proceeds cannot be called centralized by any standard, because these proceeds are also distributed to local communities, to Vojvodina, to the Employee Pension Fund and to the Denationalization Fund.

It is interesting (and probably bad, too) that neither the Law on Privatization, nor the government Decree on Tenders lay down the criteria for selecting the winner of a competition. In that manner, it was left to the Privatization Agency to set the criteria on a case-by-case basis. The practice so far has shown that the Agency used three criteria for tenders: the offered price and the amounts of investment and social programs. The price is by all means an indisputable criterion, but the question is whether the amounts of the planned investment and the social program should be used as criteria. In strictly economic terms, the seller, which is the government in this case, should not be interested in anything else but the price. And just how much the new owner plans to invest in the company is entirely his matter, because he is the only one who will enjoy the benefits. A special problem, as demonstrated by the experience of transition countries, poses the inability of the state to subsequently "punish" the buyer who did not abide by the provision of the contract on the investment program. Serbia tried to solve this problem by being tough: first, a bank guarantee is requested and, second, there is a threat of the annulment of privatization contracts without any reimbursement. The latter will maybe increase the degree of compliance with the assumed obligations, but it will also increase the risk of the deal for the buyer, thus reducing the attractiveness of Serbian privatization to potential investors. Simply, if more obligations

(encumbrances) are shifted to the buyer, the price he is willing to offer will be commensurately lower. This is particularly true in the case of the social program, which for the buyers constitutes a cost equal to the price of the company, so they calculate it accordingly; in other words, the more expensive the social program, the lower the offered price. The government finally understood that, so in 2003 it removed the obligation to guarantee employment in the next 3-5 years in the case of tenders, and in the next year in the case of auctions, taking social programs upon itself, in a reasonable expectation that proceeds from sales would be higher. After taking a closer look, it is clear that both criteria are redundant, and they were used mostly for the reasons of political marketing: to show that both the development and the employed are of concern to the government. Likewise, the use of several criteria opens up possibilities for corruption, particularly in the subsequent evaluation of whether the investment program was implemented or not. The obligation to invest is often fulfilled by contributing material objects to the company, whose value has to be appraised by someone.

In 2005, three important amendments to the law were made. First, the Agency was given the right to autonomously and very easily cancel contracts with buyers, in case they fail to comply with the provisions of the contract. Maybe judicial proceedings were slow previously, but this effort to gain in speed and efficiency has resulted in overly broad powers for one interested party, at the expense of the protection of the rights of the other contracting party. Second, in an effort to make unattractive companies more attractive, the lawmaker has provided for conditional write-offs of government claims on companies undergoing privatization – with a view to making their value positive and selling them – and for the settlement of the claims of public creditors (the budget, utility companies, state owned banks, etc.) from privatization proceeds, to the extent possible. It is not a bad move, but it will result in a success only in those firms where the configuration is such that these conditional write-offs turn their negative value into positive. Those firms which already have a positive value do not need such write-offs, and they are of no help to those firms whose value is very negative. Third, general managers are prevented from precluding the quotation of their companies' shares by simply refusing to sign the prospectus.

However, the biggest problems associated with corruption over the past 6 years did not exist in the privatization of socially owned companies, but in the ownership concentration in companies that had been privatized in the previous period. The market for corporate control (the takeover market) was activated in October 2003, against the backdrop of a low level of protection for minority shareholders, which had been codified in the Enterprise Law. The second important fact: the regulation of the process of company takeovers in the Law on the Securities Market was provisional and markedly discriminatory in favor of the acquirer. This is exactly why the expected distortions of this market occurred. Public scandals, discredited regulators, strong

interest influences that were latent have shown their drastic forms on the market. One of the key distortions of this market refers to the fact that the best companies privatized under the 1997 Law, with a low level of protection for minority owners, are exposed to the highest risk of takeovers. There are almost no takeovers of other types of companies. Maybe these problems are the best illustration of how justified the privatization model of 2001 has been. Simply, the downsides of dispersed ownership appear to be much stronger than the upsides (speed, absence of corruption in the short-run).

The takeover targets have mostly been from the so-called horizontal line: companies pursuing the same or similar activity. An inversion of the function of this market has been registered here: instead of the sanitary role (predators, acquirers eliminate inefficient companies and managers from the corporate structure), the basic function here is the creation of rents (securing monopolies) or high capital gains.

This is why the process of company takeovers in Serbia had all the characteristics of early transition: inefficiency of institutions, accelerated ownership concentration and a low level of protection for minority owners. Takeovers take place under the conditions of low price efficiency of the marketplace. The main reasons for the low price efficiency of this market are systemic: the general level of the share price is lower than in comparable countries, which results in an increased risk of hostile takeovers. This distortion permits us to describe the national market for corporate control as discriminatory in favor of acquirers. The present market configuration allows the initiation of this procedure even in those cases where the share price is not known.

The primary cause of the accelerated expansion of the takeover market is the instability of the ownership structure created by the 1997 Privatization Law. This characteristic of dispersed ownership has been registered in all the cases in which it was applied by transition countries. Undervaluation of companies on this market is a consequence of the fundamental imbalance between supply of and demand for privatization shares. The supply on the takeover market is upward distorted, as a consequence of a low income level and poor protection of minority shareholders. As a rule, yield on shares is in no way related to the amount of companies' net profits. Therefore, in most of the cases the shareholders of this type are trying to sell their assets. The acquirer(s) appear(s) on the demand side. Other potential owners (individual and institutional investors) are not buying the shares of the target company because the level of investor protection is low, due to the fact that the owner who took over the company can legally conceal profits or transfer profits and/or assets to another company that he owns.

Other organic laws governing this subject matter were not complete, consistent or coherent either. These regulatory imperfections give practically unlimited power to the management: they can "tunnel" the firm (reduce the value of its assets) and take decisions that go against the standard rules on the protection of property. On the other hand, the

Law on the Securities Market has treated all joint stock companies as open, thus unnecessarily increasing the risk of takeovers.

Takeovers often happen as the market's punishment of the management for expropriating their own owners. In the majority of dramatized takeover cases it is possible to register non-standard behavior of managers, who practically abolish or considerably limit the rights of owners. The Law on the Securities Market has not regulated a normal procedure of defense against takeovers. Therefore, a moral hazard occurs on a mass scale: the management, if not able to take the firm on their own, work more in favor of the acquirer than of their own principal. This situation produces the worst possible outcome.

The phenomenon of takeover is not disputable as such. It is a world trend today and constitutes one of the main flows of restructuring of modern economies. What is problematic about this phenomenon in our country? The experience so far with takeovers of joint stock companies in Serbia has shown that the thing which usually happens after the takeover is infringement of property rights of the existing owners on a mass scale. In the long run, this practice can compromise the financial market.

A new owner, often immediately after the takeover, caries out a massive operation of expropriation of the remaining shareholders through a recapitalization operation. This is particularly frequently done by domestic owners. The issue price of the shares of the new issue is significantly lower than the actual and last achieved market price, i.e., the share price at which the takeover was carried out. In most of the cases, as a prior action, the preemptive right to the purchase of the shares from the new issue is eliminated. These decisions are adopted by the shareholders meeting without any special resistance because they (employees and pensioners) cannot afford to buy stock of new issues. Since our legislation does not regulate secondary dealings in this right it is, in the given circumstances, practically worthless. The result of this operation is a dramatic drop in the stock price. If the new owner is a financial or institutional investor, one cannot expect additional investment in companies that have been taken over, like in the case of takeovers by strategic investors. The basic strategy of a financial investor is to make capital gains. He takes over a firm which is obviously undervalued and with relatively low restructuring costs and a change of management achieves an adequate result. As of late, the presence of these investors, in particular of funds originating from "tax havens", is on the rise. Domestic investors of this type were disadvantaged, because the law on investment funds was in the pipeline for several years.

The results of Serbian privatization achieved so far were a disappointment to many. Still, it was unrealistic to expect privatization to turn an almost completely ruined economy, such as the Serbian one, into prosperous in a short period of time. And the Serbian economy really was in a wretched condition, after decades of self-management, sanctions and

eventually the bombing. However, results are there: privatized companies are now spearheading economic activity and productive employment. The privatization process has evolved relatively successfully, without any major scandals. It turned out that the Serbian public administration can operate properly, thus probably placing the field of privatization among the best managed reform areas. Certain mistakes in the procedures are probably a reflection of a game of big numbers (a large number of privatization transactions in a short period), rather than of corruption, as some believe. Privatization is only halfway there, namely the more difficult half is still ahead. In the commercial sector, mostly unviable companies are still non-privatized. Then there are also companies from the restructuring group, out of which a certain number will end up in bankruptcy. Also slated for privatization are state owned infrastructure and utility companies, whose privatization is more complex in both conceptual and technical terms.

Likewise, one should note major progress made in the reform of the banking sector. Non-privatized banks combined with a privatized economy represent a recipe for large-scale corruption. Unfortunately, there are no scientific studies, but it is still possible to claim with great certainty that the banking system was one of the most corrupt parts of our society during the 1990s.

After a mere seven years the banking system experienced a dramatic improvement and now it is possible to say that it is at the level of other transition countries. It means that the rules, as well as the practice, are largely such that corruption is relatively difficult.

Bankruptcy

Bankruptcy proceedings can be very susceptible to corruption, if the procedure is not defined in the proper manner and if the interests of creditors are pushed into the background. The essence of a bankruptcy is the sale of a company's assets in order to settle the debts to creditors. What is important to creditors, of course, is to sell the assets at as high a price as possible, in order for the claim collection rate to be as high as possible. However, when it comes to a socially owned company as the subject of a bankruptcy, or even worse, as a creditor, standard control mechanisms begin to fail and can lead to corruption, as well as to theft and plunder of either state owned or privately owned property.

The until recently applicable law that governed bankruptcy was the Law on Composition, Bankruptcy and Liquidation, adopted at the same time as the first Enterprise Law in 1989. The environment for which that law was drafted was the prevailing socially owned property and self-management. The rules on bankruptcy and liquidation were tailored to a legal and economic setting where many issues of legal and economic life were regulated through non-legal avenues, and legal provisions, even those on bankruptcy, served only as an instrument for the execution of political decisions.

For that reason, the Law on Composition, Bankruptcy and Liquidation was rightfully assessed as inappropriate for a market economy and as a barrier to the establishment of clear and transparent economic and legal relationships. This assessment can be supplemented by saying that the inherited practice in the implementation of this law, particularly absolute voluntarism in deciding on the institution, conduct and conclusion of bankruptcy or liquidation proceedings, probably constituted an even higher barrier of that type. Therefore, the primary purpose of that law was to eliminate from legal life entities for which it was established that they were permanently unable to settle their debts (insolvent).

The reform of bankruptcy legislation was initiated as soon as the first year of transition by organizing working groups for the drafting of a new law on bankruptcy proceedings. The fact that a new law on bankruptcy was adopted only in mid-2004 testifies to the harshness of the conflict among (often misidentified) interests, as well as to the strength of the relapses of the socialist self-management logic and resistance to transition.

Under the new law, bankruptcy can be concluded in one of the two manners: liquidation or reorganization. Liquidation implies the satisfaction of creditors through the sale of assets of the bankruptcy debtor, who ceases to exist. Reorganization is creditors' satisfaction in the manner and under the conditions defined by the adopted plan for the reorganization of the debtor company.

Therefore, it is possible to point out the unavoidability, that is, the reliability of the criteria on the basis of which a decision is taken on the opening and/or initiation of a bankruptcy proceeding as the first key novelty of the new bankruptcy system. There should be no room any longer for discretionary decision-making by a court or some other institution and/or person. A creditor can set off the institution of a bankruptcy, by asking a debtor to pay a debt which cannot be collected (on an exceptional basis, the debtor himself can trigger a bankruptcy by making it probable that he will not be able to pay his obligations once they fall due; potentially, his objective is then to enable, through a bankruptcy, his own timely reorganization, i.e., restructuring, which will make it possible for him to become solvent again). It is very likely that precisely this novelty, the inevitability of a bankruptcy proceeding once the statutory conditions have been met, if proposed by a creditor or some other authorized person, and particularly in the cases for which no preliminary proceeding is envisaged, was the reason for the resistance to the adoption of the Law on Bankruptcy Proceedings.

The second important novelty is a completely changed role and status of creditors in bankruptcy proceedings. They have ceased to be passive observers of the actions by a bankruptcy judge, a bankruptcy panel and a bankruptcy administrator, and have become active participants, on whose decisions a model used for the conduct of the bankruptcy proceeding will depend, as well as its pace and finally the accomplishment of the objective, that is, the satisfaction of creditors.

Depending on the character of creditors, whether they are bankruptcy creditors, or excluding and/or secured creditors, the Law provides for their special procedural roles. The most important role is played by bankruptcy creditors, who act through special bodies, the creditors' assembly and committee (the committee is a body elected by the assembly and constitutes some kind of its executive body). The creditors' assembly is the one to decide whether the bankruptcy will be conducted in a proceeding which will lead to liquidation or to reorganization and resumption of work of the bankruptcy debtor. Creditors participate in the decision-making, through the creditors' committee, by giving opinions to the bankruptcy administrator, regarding the method for sale of assets for cash, as well as regarding other issues related to the management of assets until the end of the bankruptcy. The committee also has a controlling role in relation to the bankruptcy administrator, with the right to file a complaint against his decisions with a bankruptcy judge or panel, propose his dismissal and appointment of a new one and set the amount of reimbursement for expenses and remuneration to the bankruptcy administrator. The committee lodges appeals on behalf of all its creditors against the decisions of the bankruptcy judge and panel.

The third novelty is a considerably modified status of the bankruptcy administrator. A separate law (on the Bankruptcy Supervision Agency) stipulates that a person can be licensed only on the basis of a special bankruptcy administrator exam and that the work of bankruptcy administrators is to be supervised by the Agency. The bankruptcy administrator is entitled to reimbursement for costs and to remuneration, so he has an incentive to carry out his task properly and swiftly. At the same time, he is also held liable for the damage sustained because of his unlawful and/or unconscientious work. The bankruptcy administrator may be dismissed (replaced) in the course of the proceedings, on the initiative of creditors. If a bankruptcy proceeding is conducted against a debtor that is majority state or socially owned, the function of the bankruptcy administrator will be performed by "a specialized institution set up by virtue of a separate regulation", which is as a rule the Privatization Agency. The bankruptcy administrator, upon the opening of a bankruptcy, has the powers of a management body or owner of the debtor. The bankruptcy administrator is, like in the previous system, under the supervision of a bankruptcy judge and a bankruptcy panel, but this time it is combined with the creditors' control, which constitutes an additional guarantee for his lawful, conscientious and efficient work.

An important novelty is an effort to set time limits for certain actions in bankruptcy proceedings. On a cumulative basis, according to these time limits a bankruptcy proceeding should take between six months and a year. In the sale of the debtor's assets, in addition to the sale of objects and rights pertaining to assets, the sale of the debtor as a legal entity or part of the debtor is also provided for. The Law stipulates that

one of the two forms of public sale is to be applied, an auction or a tender. Only exceptionally, under the strictly defined conditions and in a limited number of cases, a free sale is possible (through direct agreement).

Transparency of Ownership and Registration

The way in which entry of new entities into economic (and legal) life is organized is very important, particularly at the initial stage of transition. Overly high obstacles and barriers to the organization of new economic entities can be put not only by the rules of company law, but also on the formal side, in the process of their registration.

The potential importance of this legislation is not exhausted there. Public registries on companies and entrepreneurs provide data on other participants in economic life. Their completeness, accuracy and updatedness also have great significance in the fight against corruption. Furthermore, obstacles and unnecessary delays can also occur in the case of changes in legal personality (mergers, acquisitions, divisions and links of business companies through capital).

In Serbia, the procedure for the registration of companies until recently was governed by the regulations adopted in the pre-transition period (subsequently somewhat amended), in the most recent version of the Law on the Procedure for the Registration in the Court Registry of 1994, the Decree on the Registration in the Court Registry of 1997 and the Law on Entrepreneurs of 1989. Under these regulations the Company Registry was maintained by the Commercial Court, pursuant to the rules on the non-contentious procedure, while the Entrepreneur Registry was maintained by a municipal administrative body.

The method used by the court to decide on an application for entry into the Company Registry included an obligation to assess whether all prescribed requirements for the registration had been met, by reviewing the application and the supporting documents. A legal issue that was raised here, particularly by analyzing the practice of commercial courts, was what the role of the court was, which kind of powers it had in relation to the contents of the filed corporate charter and by-laws (under the 1996 Enterprise Law, for the purposes of the registration application procedure, it was necessary to file the Memorandum of Association, that is, the Corporate Charter and by-laws), particularly regarding the prescribed rules on corporate governance.

In practice, the court would refuse to register a company if it detected shortcomings in the composition, competences of and relations among company bodies, which constituted violations of the rules of the Enterprise Law, however, not by virtue of a negative decision, a ruling, but mostly by issuing a resolution, hence a type of decision which usually serves to administer the procedure, *de facto* calling upon the founders to eliminate the detected shortcomings before a possible refusal of the registration by virtue of a ruling.

In some cases, following the logic and principles of the corporate governance rules, the court would also assess the appropriateness of the company's arrangements, not just formal legality. This, in fact, was a preliminary control of corporate rules, which, according to some opinions, constituted one of the main sources of corruption in the 1990s. Some authors think that such role of the court was to a certain extent desirable at the early stage of company law. However, one should also bear in mind that the knowledge of judges about the basic issues of corporate governance was at an extremely low level, so the interference of the court in the assessment of the appropriateness of individual arrangements was very detrimental, and corruption and extortion were frequent phenomena.

Although it was prescribed that the procedure for the registration in the Court Registry was to be considered urgent, the general assessment is that it took too much time, that too many documents, certified signatures and other formalities were required in support of the application, that the courts acted too formally and rigidly. Relative tardiness, even in the case of the simplest entries of changes, can cause serious damage. Moreover, the engagement in the tasks related to the registration blocks judicial resources necessary for long (also too long) proceedings. In addition, the situation in commercial courts regarding human resources and technical capacities was (and still is) such that even the provision of data on entries (the Registry has the character of a public registry and any interested party is entitled to review it, i.e., obtain a transcript from it) creates difficulties.

Therefore, one has embarked upon radical amendment of the legislation in this field (these regulations, too, were drafted by the first democratic government, but they did not make it to the agenda prior to the dissolution of the National Assembly, so they were adopted by the next tenure of the parliament). The simplicity and swiftness are the main features, i.e., intentions of the new system. The new Law on the Registration of Economic Agents has removed the tasks of registration from the jurisdiction of courts and entrusted them to a special business registry agency. In this manner, the bodies and the rules for the registration of business companies and entrepreneurs have been integrated. That further means that the procedure is not a court proceeding but a special type of administrative procedure. In that procedure, an appeal may be lodged only against the decision by virtue of which the registration is denied, not against the decision by virtue of which it is granted.

The registration is carried out at the request (upon an application) of an entity, which is obliged to submit all the documents necessary for making an entry, in support of the application. A party which thinks that an interest of his has been violated by the registration (e.g. shareholder or investor who believes that a change was registered in contravention of the rules laid down by laws or company regulations) can exercise that interest only before a court, by proving that the document on the basis of which the registration was made (e.g. a decision of the

company's management body) was illegal; the law provides for a correction and/or deletion of the entry.

Other very important novelties brought by the new system include:

- Urgent procedure, pursuant to the law, is not just an instructive rule. If the registrar (an authorized person appointed by the Management Board of the Agency, who performs all the tasks related to the entry, issuance of transcripts and certificates, etc.) fails to make an entry in the prescribed time limit, the entry will be considered to have been made, and the registrar is obliged to note that.
- Single registry for the whole of Serbia; registries maintained by commercial courts did not constitute a single unity. Now, there is only one registry – irrespective of the office where the registration was made.
- Maintenance of an electronic registry, which enables quick data manipulation.
- Linkage with other registries where data on an economic agent are kept.
- Obligation to submit annual reports on business operations, which implies not only transparency and/or availability of these data, but also a relevant legal response in the case of a failure to submit reports; the assumption is that the cause for it is a fact that a company or an entrepreneur had no economic activities, for which reason their status will be *ex-officio* reclassified as inactive, in case they fail to submit a report for two years.

The laws which govern the status, founding procedure and termination procedure of economic agents that have proven to be unviable were adopted as late as the fourth year of transition; on the basis of the experience from other transition countries and due to the nature of things they are regulating, they could have been expected at the beginning of the first stage of transition.

This "delay" is caused partly by the fact, as already proven, that formally and legally, structures provided for by pre-transition regulations could serve as a framework for new conditions, i.e., new terms as well. This applies primarily to the enterprise law, that is, the law on business companies. The upgrading and fine tuning of the regulations could wait (necessary interventions for socially owned companies had been made before).

From that perspective, the new Law on Business Companies constitutes a good step forward. However, one should not forget that the system, in the legislative sense, is far from being completed. A public debate which is still ongoing about certain aspects of the legal regulation of the capital market, as well as public scandals that broke in relation to the implementation of the existing regulations, clearly show which questions should be urgently regulated or reformed: the securities market and the role of investment funds. Not only that this market is not regulated to the full and under the market economy standards, but also the

process of inclusion of some more significant share of the privatized (equity) capital into market mechanisms is evolving extremely slowly.

Conclusion

The overall assessment of the influence of indirect government policies on corruption can be mildly positive. Although the transition is slower than many would like it to be, considering the extraordinary circumstances and problems which Serbia has faced in this period (cooperation with the Hague Tribunal, the process of resolving the issue of Kosovo's future, the assassination of the Prime Minister), one has to admit that a lot has been done in these seven years. In all probability, liberalization of foreign trade, reform of public finances and privatization of both financial and real sectors have contributed to the reduction of corruption more than all direct anti-corruption measures taken together.

Of course, there is still a lot to be done, but the impression is gained that with the completion of the privatization of socially owned companies, as well as with the resolution of the issue of parastatals, the situation will further improve. Likewise, the process of joining the EU and a long-awaited accession to the World Trade Organization will to a large extent force the government to pursue further liberalization and deregulation, which beyond any doubt constitute the best anti-corruption strategy.

DIRECT GOVERNMENT ANTI-CORRUPTION POLICIES

In the past six years, the fight against corruption was often cited as a priority of the government. Serbia has adopted a good many standard legal arrangements in an effort to directly prevent corruption, or at least make it more difficult. The stress is mostly on formal constraints introduced on politicians and political parties, related to their decision-making and policy design, as well as to the control over the execution of decisions.

Thus, the new Law on the Financing of Political Parties and the Law on Prevention of Conflict of Interest in Discharge of Public Office were adopted, with a basic objective to aggravate the exerting of influences by "informal power centers" on politicians, as well as to make these influences transparent, because it is believed that the influence of business on politicians is one of the main mechanisms of corruption. The second part of the measures can be considered less direct in a way, like the Law on Free Access to Information of Public Importance and the Anti-money Laundering Law, because they have some other purposes, too, in addition to combating corruption. Likewise, a number of strategies have also been passed, which more or less directly touch upon the issue of corruption (Anti-corruption Strategy, Public Administration

Reform Strategy, Judicial Reform Strategy). A general assessment is that these measures are mostly aimed at dealing with the consequences, rather than the causes of corruption. Even the Law on the Financing of Political Parties, which is considered to touch upon the causes of corruption (the link between politics and the economy), can be viewed as tackling the consequences, because the cause of corruption is not the link between politics and the economy, but too much government interference with the economy. If this interference were at a lower level, the motivation of businessmen to even think about bribing politicians and civil servants would decline.

Law on the Financing of Political Parties

The financing of political parties is often considered to be one of the main factors (mechanisms) of corruption. Namely, since modern parties engage considerable resources, both during election campaigns and outside them, a question is rightfully raised of how to ensure the transparency of the financing of these activities.

The link between corruption and the financing of parties is quite obvious – parties need money in order to achieve a good result in the election, and corruptors need favors after the election. That gives rise to a clear possibility for trade – corruptors may give money to parties for the campaign, and in return expect favors in the future. The main ways in which this link between corruption and party financing can be severed include the financing of parties out of the state budget, the control and transparency of private contributions, as well as the reliance on the membership fees as the basic source of revenue of a party.

The fundamental question which is raised is – should parties be given money from the budget? Different states have resolved this issue in different manners. There are completely reasonable pro et contra arguments. The arguments for allocating public funds to political parties for financing their work are mostly based on the assumptions that a more equitable political contest is ensured, dependence on private donors is reduced and thus also the possibility for corruption. The arguments against such an arrangement are based on the understanding that taxpayers should not have an obligation to finance political parties, but only those who are members and supporters of political parties should have the right to do that. Likewise, it is considered that this financing method (where major parties obtain more money on a pro rata basis) essentially constitutes a barrier to entry of new parties, thus "cementing" the dominant position of parliamentary parties.

The Law, which the National Assembly of the Republic of Serbia adopted in July 2003, and whose implementation started on 1 January 2004, accepted the position that the state should finance the work of political parties to a certain extent (which is relatively high). In the parliament, it was passed with a vast majority, with votes of all present MPs from different political parties. That consensus gives it additional

legitimacy and credibility, on the one hand. On the other, this consensus can also be cynically interpreted – of course they agreed to take more money from the budget. However, the thing in which we are primarily interested here is what kind of influence certain provisions of this Law can have on the reduction, i.e., increase in corruption.

The Law sets out that the funds for the financing of political parties may be obtained from public and private sources. Public sources include the funds from the Budget of the Republic of Serbia, budgets of territorial autonomy units and budgets of local self-government units. Private sources include: membership fees, contributions from legal entities and natural persons, income from promotional activities of a political party, income from property of a political party and legacies.

In Serbia, a relatively high amount is set aside from public sources (maybe that is, after all, the reason for the compromise among political parties in passing this law). This law sets the said amount at 0.15% of the Republic of Serbia's budget, 0.1% of the budget of a territorial autonomy unit, i.e., 0.1% of the budget of a local self-government unit, annually. Thirty percent of these resources is allocated in equal amounts to political parties with MPs or local councilors, while the remainder of the resources (70%) is distributed in proportion to the number of seats in the republican and/or local parliaments. By way of example, in 2006, since the budget amounted to around 520 billion dinars after the revision, transfers to parties from the republican budget alone should have amounted to around 780 million dinars, or around 10 million euros, although the appropriation in the budget was around 550 million dinars (7 million euros), or about 0.1% of the budget, which is an obvious violation of the Law. In other countries which have opted for partial financing of political parties from public sources, money is also distributed in a similar manner, commensurate with the number of votes won in elections and seats in parliaments. However, the question of financing non-parliamentary parties can be rightfully raised.

On the one hand, it is possible to assess that these provisions of the Law can have a beneficial effect on the reduction of corruption, because they reduce the pressure on parties to raise money. On the other hand, however, economic theory (Becker's model of relative pressure by interest groups) tells us that relative costs, rather than absolute ones, are important in advertising. In that sense, allocating money to all political parties does not change relative relations, so the thus spent money can perhaps be considered to be wasted. Alternatively, since it is important to have more money than other parties, the pressure to raise additional funds continues to exist, thus also the pressure toward higher corruption.

In all modern democracies political parties can collect resources from private sources as well, first and foremost membership fees. The financing by membership fees is generally considered to be the most democratic and the least problematic method for financing political parties. It guarantees a certain influence of the party's rank and file on the official

party policy and prevents the creation of excessively strong positions of individual financial magnates. One of the main reasons for prescribing the method for financing political parties is precisely the encouragement to the rank and file of political parties to participate, i.e., the attraction of a wide circle of individuals who will give relatively small individual contributions and pay membership fees.

However, the fact that the Law recognizes as legal any membership fee defined by the statute of the party has brought about at least one interesting phenomenon. Namely, parties' statutes often contain a provision prescribing that all the persons who hold public offices as a result of the membership of a party, have an obligation to pay a certain portion of their salaries to their party. This is, on the one hand, satisfactory for the party because it raises additional revenue, but, maybe paradoxically, this is satisfactory for the holders of public offices, too, because that provision gives them a significant advantage in appointments relative to non-party candidates, since the party is making some gain from their salaries and has an additional motive to appoint them, rather than non-party candidates.

In most countries, private contributions constitute the biggest source of income. However, such development could result in the creation of new possibilities for potential influence by those who are willing to give money to a political party, and it is precisely the thing that causes the greatest concern among the general public. Pursuant to the legal arrangement in Serbia, a natural person can make a contribution which may amount to not more than ten average wages in a calendar year, while for a legal entity that limit is a hundred average wages. Annual revenue from assets owned by a political party is also limited to not more than 20% of the total annual revenue.

This Law prevents the financing of political entities in Serbia from the following sources: foreign countries; foreign legal and natural persons; anonymous donors; public institutions and public enterprises; institutions and companies in which the government has an equity stake; private companies rendering services under a contract with government agencies and public services; enterprises and organizations exercising public powers; humanitarian organizations; religious communities; organizers of games of chance; importers, exporters, sellers and producers of excisable goods; legal entities and entrepreneurs with tax arrears.

It is interesting to take a quick look at that list of "undesirable" donors, because these provisions of the Law are probably the most important from the standpoint of combating corruption. Obviously, the lawmaker trusted neither political parties nor the private sector, nor foreigners for that matter. As for foreigners, it is not quite clear why foreign legal and natural persons are forbidden from making contributions, since the reason why contributions of foreign persons are considered more "dangerous" than contributions of domestic persons is not quite clear. At the end of the day, a foreign legal entity

can always set up a company in Serbia, thus complying with this formality. Distrust of political parties is obvious from the fact that contributions of public enterprises and institutions are forbidden. The purpose of this provision was not to protect the parties from the influence of these entities, but to protect the assets of these entities from being channeled to political parties. The thing which is not totally clear is why a company where the state has a small stake in equity is forbidden from making contributions.

Likewise, it seems that other provisions, too, are overly restrictive and basically non-implementable. For instance, there is no place in Serbia that has a registry of "private companies rendering services under a contract with government agencies and public services", so there is simply no way to *ex ante* determine whether the law is violated or not. The same applies to "legal entities and entrepreneurs with tax arrears". At first sight, it seems that there would be essentially no one who could finance the work of the parties if all the persons who do not comply with individual provisions of this Law were excluded from the group of all legal entities. Similarly, the question is raised of why the manufacturers of and traders in excisable goods cannot make contributions. Just as a reminder, excises are also levied on non-alcoholic refreshment beverages, syrups and powders for non-alcoholic refreshment beverages, fruit juices, concentrated fruit juices, fruit nectars and dehydrated / powdered fruit juices. We assume that these provisions exist in the Law precisely because it is clear to everybody that they cannot be implemented, and that they are, therefore, completely irrelevant.

The Law also sets the absolute amount which parties can raise and spend on their work. Thus, the total amount of funds from private sources (other than membership fees) can amount to not more than 100% of the funds received by a political party from the budget of the Republic of Serbia. For non-parliamentary parties, that limit is 5% of total budget allocations for regular work of political parties. This is essentially a ban on entry to "the market" of a new party backed by powerful economic interests. A question which can be rightfully asked, as it appears, is how the Serbian Strength Movement managed to finance its campaign. It is completely clear that the campaign cost much more than 5% of the total budget allocation.

The next question is whether these provisions provide for a financing channel which should be prohibited. One of such examples is the provision of services to a political party below market prices. Cheaper advertising space in some media outlets can serve as an example. Despite the fact that the law does prescribe that the amount below the market price should be considered to be a contribution, the procedure in terms of who is determining "the market terms" and how has not been defined. Likewise, it seems that an opportunity for companies to make contributions to political parties has been left open through various associations. For instance, if the companies with tax arrears are forbidden from giving contributions to political parties, these companies can establish an

"Association of Government Debtors" which is not forbidden from making contributions to political parties.

The Law on the Financing of Political Parties, *inter alia*, governs the manner in which election campaigns are financed. The Law sets out that resources for the financing of the costs of an election campaign are to be raised from private and public sources, sets the amount of funds that are allocated and determines the limits on individual contributions, as well as a cap on the costs of the election campaign. From public sources, the resources earmarked for covering the costs of an election campaign amount to 0.1% from the budget of the Republic of Serbia, 0.05% from the budget of a territorial autonomy unit, i.e., 0.05% from the budget of a local self-government unit.

The budget appropriation for the financing of election campaigns is distributed in the following manner: the resources in the amount of 20% are allocated in equal amounts to nominators of registered electoral lists, that is, to nominators of candidates, while the rest of the funds (80%) is allocated to nominators of electoral lists that have won seats in proportion to the number of seats won, that is to a nominator of a candidate who has won a seat. The unspent resources are returned to the budget of the Republic of Serbia. The total funds raised from private sources may not exceed 20% of the total funds set aside from public sources. The contribution which an individual natural person makes for the costs of an election campaign may not exceed 0.5% of the receipts that may be received from a private source, while a contribution made by a single legal entity in the election campaign may not exceed 2% of that sum.

It seems illogical that there is a limit on total funds which a party may spend in an election campaign, i.e., that this limit is not set in an absolute amount, but rather in a relative one (relative to the number of seats won in parliament). This provision is a significant obstacle to new parties which cannot count on more substantial amounts of money from public sources, so these provisions seem to constitute a significant barrier to entry. Likewise, it is not clear who controls, and in which manner, whether these resources have really been spent on costs of campaigning.

In addition to preventive provisions, it is very important for those laws which govern the financing of political parties to also define the mechanisms for financing supervision and control. Since the models of "illegal" financing are very similar all over the world, there is a universally accepted mechanism in the domain of control – the obligation to present and publish reports on financing and property. Pursuant to the law, these reports should be published in the Official Gazette of the Republic of Serbia.

A precondition for making reviews possible is, of course, a detailed definition of the procedure for record keeping, reporting and bookkeeping by a political party. The law stipulates that every political party is obliged to have an account for the funds earmarked for the financing

of regular activities. In addition, the obligation of all the participants in the electoral process is to open a special account for financing the costs of an election campaign. A political party is obliged to keep books where all their revenues and expenditures are recorded and to submit its annual financial statement and annual report on contributions and its assets to the Finance Committee of the National Assembly. The statute of a political party must lay down the method for performing internal controls of financial operations and lay down the right of party members to be informed about the revenues and expenditures of the party. Parties are obliged to appoint a person responsible for financial operations, submission of reports and bookkeeping of a political party. The Finance Committee, pursuant to the Law, makes all the received reports available to the general public, and undertakes appropriate measures in order to ensure that all the citizens have access to information contained in these reports.

No part of the executive is considered to be sufficiently neutral for the role of controlling political parties in the political process. According to this legal arrangement the said role is split between two bodies – the Republican Electoral Commission and the Finance Committee of the National Assembly of the Republic of Serbia. That is to say, the control over the financing of election campaigns is entrusted to the Republican Electoral Commission, while the control of the reports on the financing of the regular work of political parties is in the competence of the Committee of the National Assembly of the Republic of Serbia in charge of finances. Essentially, it is left to the parties to control their own finances and those of other political parties.

Of course, violations of the provisions on the financing of political parties and election campaigns should not go unpunished. The usual sanctions provided for by these regulations include confiscation of the contribution, a fine or a ban on funds from public sources. Our legislator has opted exclusively for fines for violations of the provisions of this law. A political party spending funds in an election campaign in excess of the amount set out in this Law will be fined for this offence in an amount which is twice the sum in question. The Law also prescribes that the Chairperson of the Finance Committee is obliged, if he has identified irregularities related to the raising, using or recording of funds for the financing of political parties, to press charges with the competent authorities. The Finance Committee also decides on the loss of the right to funds from public sources, namely if a political party is punished for an offence prescribed by this Law by virtue of a final decision.

Generally speaking, this law, despite certain shortcomings, is not a poorly drafted piece of legislation. However, there are many difficulties in the implementation of this law, which is proven, *inter alia,* by the Report on the Control of Financial Reports of Political Parties for 2005. Namely, as previously mentioned, political parties have an obligation to submit an annual financial statement, certified by an auditor, a report

on the contributions exceeding the amount of 6,000 dinars, as well as a report on their property.

Out of a total of 421 political organizations in Serbia, all requested reports were sent by three parties (the Bosniac Democratic Party of Sandžak, the Social Liberal Party of Sandžak and the Democratic Party of Serbia), while 21 parties have submitted all the reports with the exception of the auditor's report. The explanation is interesting. Some of those parties (for instance G17 Plus, PSS, SPS, SRS) failed to submit an auditor's opinion because they are, pursuant to the Law on Accountancy and Auditing, categorized as small-sized legal entities, hence they think that they do not have an obligation to have their statements audited. As for the DS, they have submitted a report on the audit, as well as the reports on property and contributions, but they failed to submit annual financial statements.

Only 76 parties have submitted at least one report, which points to the fact that the number of essentially non-existent parties is large. Likewise, one should mention that only 7 parties have had their annual financial statements and mandatory reports published in the Official Gazette, which is also a statutory obligation. Among those who have not met this obligation are Nova Srbija (New Serbia), SPS, PSS, DS and G17 Plus.

The mentioned Report notes that "no political party has exceeded the total sum of contributions for natural persons, which amounted to 253,920 dinars, nor the total sum of contributions for legal entities, which amounted to 2,539,200 dinars in 2005".

Particularly interesting is the following observation: "Parliamentary political parties have submitted financial reports and other documents prescribed by the Law on the Financing of Political Parties before 15 April 2006". Hence, although it has been stated that only 3 political parties submitted all the reports, the conclusion contains a remark noting that all parliamentary parties have honored their statutory obligations, which is paradoxical and points to the fact that the method under which political parties control the operations of political parties may not be the most appropriate one.

A special paradox is the fact that the Ministry of Finance has issued an opinion with an interpretation that all political parties must have their financial statements audited, but the Finance Minister's party did not do so, because it was of the opinion that it was not under such an obligation.

In conclusion, an issue associated with corruption and the financing of parties is also the issue of lobbying. Since it is a notion which is relatively unknown to our public and which is very difficult to precisely define and delineate from corruption, we believed that something should be said about that, too. The field of lobbying is normally highly regulated in the world, so the lobbyists have to be registered, and their operation is under a special regime. In Serbia, the field of lobbying has so far not been regulated in any way, although it is very clear that there

is a large number of associations and organizations for which lobbying constitutes the essence of their existence. The recommendation is to adopt a law that would specify the activities that are allowed, and those that are not, as well as which information on lobbying has to be public. Obviously, it is difficult to draw a border line between lobbying and corruption, but that is not impossible.

Law on Prevention of Conflict of Interest in Discharge of Public Office

The main purpose of the Law on Prevention of Conflict of Interest in Discharge of Public Office is to limit the possibility for a public official to put his private interest above the public one in decision-making.

Although in the narrow sense the fight against corruption is not the purpose of this law, but the fight against embezzlement and biased decision-making, one still has to note that this law prevents certain mechanisms of corruption. For instance, one of the provisions of the Law, stipulating that a public officer cannot also be a consultant to legal entities, eliminates that mechanism of corruption – where a legal entity makes payments to a public official through consultancy fees. Likewise, the provisions on the obligation to report property to a certain extent eliminate the possibility for an official to significantly increase his property during his term in office.

However, one large portion of the law, which is related to the "concentration of functions" essentially does not affect either the field of corruption, or the field of the prevention of conflict of interest. The question is raised of which interests are really in conflict, for instance, if the energy minister is at the same time a member of the Management Board of the Serbian Power Company (EPS). One could say that this is about an old communist concept of de-accumulation of functions, but now in a new form and with a new rationale.

As regards the coverage of the Law, an impression is gained that a very large number of public officials is covered. On the one hand, this is actually a shortcoming of this Law, because the number of public officials in terms of this Law is indeed high, so the Republican Committee for Resolving Conflicts of Interest must invest a large share of its resources in the creation and maintenance of a database on public officials. On the other hand, it seems that many true decision-makers are not covered by this Law. Here we primarily have in mind members of various commissions, such as commissions set up for the purpose of assessing bids in public procurement tenders (tender committees) and the like. This Law does not apply to them. Likewise, this law does not apply to people who do not personally take decisions, but have a significant opportunity to influence the decision-making process, such as advisors to the prime minister and deputy prime minister, as well as advisors to ministers.

The greatest objection made by the public to this Law was related to the provisions of the Law by virtue of which MPs were "spared" in the sense that certain provisions do not apply to them.

Likewise, certain provisions are simply absurd, such as, for instance, Article 6, paragraph 1, pursuant to which "An official may not use public office to … benefit himself or related person by way of influencing decisions…". It is only natural for almost any decision to benefit someone (otherwise, it would be a completely irrelevant decision), so it is not clear how something like that can be avoided.

The law also prohibits a public official from having managing rights in a business company, i.e., he has to temporarily assign these managing rights, for the duration of his term in office, to someone who is not a related party. It seems that this provision is overly restrictive. It is clear, for example, that the National Bank Governor must not hold shares of a commercial bank, but it is not clear why he should not be allowed to be a shareholder of a factory, for instance. Similarly, it is prescribed that public officials must not be members of managements of public enterprises. These are the provisions that both the professional circles and the general public were interested in the most, although it is not clear exactly about which conflict of interest we are talking about here, since public enterprises, at least according to the law, work in conformity with the public interest. However, as previously mentioned, these provisions do not apply to MPs. Obviously, those who voted for this law found themselves in a situation in which they put a personal interest above the public one.

It is also interesting to take a look at the forms which all officials have fill in and submit to the Republican Committee. The first thing that can be observed is that the form is really exhaustive and that almost all relevant items have been covered. The thing that is missing is a request to submit evidence for the figures stated in the form. For instance, one of the items in the form refers to "claims". Potentially, an official may put a very large amount into that item at the beginning of his term in office, and then to explain an increase in his assets in the course of his term with the reduction of his claims. In a situation when no proof of a claim is requested, such machinations are possible, and their detection impossible. Also, it is not quite clear what happens in a situation when an official cannot obtain data on the assets owned by related parties. Does, for instance, an official's father has any legal obligation to disclose to his son the information on all the property he owns?

In its Work Report, the Republican Committee has stated that almost all republican officials had submitted the requested data, and that the largest problem was with the officials in local self-governments, which is in a way expected. The key thing here, which is missing, is a report on the quality of supplied data and the information about whether these data are controlled (e.g. in cooperation with the Tax Administration) and what the findings were of these controls.

As regards the penal provisions, penalties seem to be too mild. The first penalty, a confidential caution not disclosed to the general public, constitutes practically the first step after it has been established that a public official has violated the law. The second penalty (the public announcement of a decision that this law has been violated for elected public officials and a public announcement of a recommendation to resign for other public officials) is the most serious penalty. One would have to introduce more serious penalties as well, such as an obligation to return salaries and fees received in the period in which the law was violated, as well as, if possible, a provision allowing the seizure of the assets for which no proof can be offered to show that they were legally acquired, provided that they were acquired during a person's term in office.

Bill on the Anti-corruption Agency

After a lot of time and public debating, the Serbian Government approved this Bill and submitted it to the National Assembly of the Republic of Serbia. Although the law has not yet been adopted, and we do not know which specific provisions will be incorporated in it, we still believe that it is important to briefly analyze the bill that is pending in the parliament.

First and foremost, one should say that this Law supplants the Law on Prevention of Conflict of Interest in Discharge of Public Office and that the bulk of the provisions of the mentioned law have been taken over. In the part dealing with prevention of conflict of interest the key provision is the one specifying that this issue will be dealt with by the Anti-corruption Agency instead of the existing Republican Committee for Resolving Conflicts of Interest. Other provisions are practically the same. Likewise, a Bill on the Amendments to the Law on the Financing of Political Parties was approved in parallel with this Bill, by virtue of which the implementation of that law is assigned to the newly established Agency.

However, the provisions related to the Agency as such, its organization and competences are completely new. First and foremost, the Agency is in charge of the implementation of the Anti-corruption Strategy and the Action Plan. Likewise, it is authorized to participate in the preparation of regulations in the field of the fight against corruption. Under the Bill, the Agency is supposed to have a Management Board, whose 7 members are elected by the National Assembly at the proposal of seven authorized nominators, who each puts forward a list of 3 candidates.

It seems that the idea to set up an Anti-corruption Agency is related primarily to the implementation of the provisions of the present Law on Prevention of Conflict of Interest and the Law on the Financing of Political Parties, which means that the activity of the Agency is oriented toward political corruption, that is, state capture. Implicitly, it

is possible to conclude that administrative corruption is "left" to the regular bodies of the state, primarily to the police and the prosecutorial service.

The problem, however, is related to the fact that such a concept of work of the Agency means that the advisory function of an anti-corruption body is practically abandoned, which is certainly not good, since that function cannot be transferred to any other body.

National Judiciary Reform Strategy

The basic goal of the National Judiciary Reform Strategy, which was adopted in April 2006, as stated in it, is to restore the citizens' confidence in the judicial system by establishing the rule of law and legal security. Carrying out the strategic reform at all levels of the judicial system is cited as a precondition for realizing this goal and identified as its greatest shortcomings are the inappropriate constitutional framework, inadequate number of courts, unclear judge election and dismissal criteria, obsolescence of judicial administration and lack of continuous training of holders of judicial functions. In addition to the lack of harmonization between the political-legal system and the existing social relations, also stated as an important reason for adopting the Strategy is an easier implementation of the EU accession process and fulfillment of all international obligations of the Republic of Serbia.

The Strategy adoption process was long and included a wide circle of interested persons, domestic as well as international factors. Before the final adoption, two drafts were prepared (in July and December 2005) that were the subject of intensive discussions. A certain number of given suggestions has been adopted and included in the final version of the Strategy. A large number of them was directed towards as great precision and level of detail as possible, particularly regarding short-term goals and implementation, as well as ensuring as wide representativeness as possible in the institutions in charge of the Strategy implementation.

The Strategy mentions independence, transparency, responsibility and efficiency as the four key principles on which the reformed judiciary should be based.

The largest part of the Strategy is dedicated to the judiciary reform, dealing with other parts of the judicial system as well to a smaller extent: the Ministry of Justice, the prosecutor's office, execution of correctional sanctions, and independent judicial professions. The judiciary reform framework includes 12 basic goals of reform, with each of the four previously mentioned key principles comprising three goals relating to solving the most important problems in the judiciary. Each of the goals is presented by a short description of the present state, the vision of new judiciary, as well as the necessary basic activities for reform implementation. The initiatives are grouped according to short-term (2006-2007), medium-term (2008-2009) and long-term (2010-2011) implementation

time limits. The Strategy includes standards by which progress in the judiciary reform will be measured, which are specified in a separate Action Plan and relate to individual goals defined in the Strategy.

The Strategy also provides for establishment of the Strategy Implementation Commission, which is composed of representatives of relevant judicial institutions. One of the important tasks of the Commission is proposing standardized forms of collection of statistical data needed for the assessment of reform processes on the basis of which the institutions of the judicial system will make strategic decisions.

One of the greatest novelties the Strategy brings is proposing introduction of the institution of High Judicial Council, which has become, with the adoption of the new constitution, a constitutional category as well. Proceeding from the constitutional separation-of-powers principle, the establishment of an "optimal relationship" between the Ministry of Justice and the High Judicial Council, as institutions responsible for the functioning of the judicial system, was stipulated.

This new institution should be a guarantor of independence and autonomy of courts and judges, as well as the managing and supervisory body of the judicial system. Namely, the Council has the key role in the process of election, promotion, responsibility, financial status and termination of judicial function, and also has authority regarding human resources, organization and supervision, budget, performance measurement, general framework and internal regulation and operation of courts and strategic planning.

It is of particular importance that the High Judicial Council has the sole authority to propose the candidates for the first election to judicial function to the parliament, which elects them for a definite period of three years. Upon expiry of this period, the Council decides on permanent appointment to judicial function, which is declaratively confirmed by the Speaker of the National Assembly.

The following important novelty, whose goal is to ensure the judiciary's independence, is the *introduction of independent judicial budget*. In the transitional period, until transferring the budget authority completely to the judiciary in 2011, or until the moment the High Judicial Council, together with the Treasury of the Republic and the Ministry of Finance, is prepared and authorized to determine, approve and distribute the budget for the judicial system, the Ministry of Justice will still represent the judiciary in negotiations with the Ministry of Finance.

In order to enable a more efficient processing of criminal cases, the Strategy also provides for gradual limitation of the role of investigative judges, and for the prosecutors assuming the responsibility for evidence collection. Stated as the reasons for introducing this change are positive experiences of the neighboring countries and obligations for legal protection within "reasonable time limit" prescribed by the European Human Rights Convention. Prosecutors will also be allowed to accept plea bargains, which would be supervised by courts, in order to solve the problem of backlog of criminal cases and delays. The impression is

that, if the possibility of plea bargaining is not prescribed in detail and controlled, this proposal introduces significant discretion into the system, thus increasing the possibilities for corruption.

By the new constitutional and legal framework, the authority of the prosecutor's office is also changed by a clear definition of its role in protecting the constitutionality and legality. The intention is to achieve legal security by abandoning the previous traditional system of extraordinary remedies against valid judgments, making the courts solely responsible for the decision-making on violations of legality and constitutionality, and reducing the prosecutor's role to the right to bring such issues before the highest court in exceptional cases.

In order to provide a more credible image of the judiciary, the Strategy provides for enabling access to information about cases, with simultaneous protection of privacy of the parties in the proceedings. Automated systems in courts available to all citizens will have a special role in achieving this goal. The judicial system is also to undertake education of the public and the media in a proactive manner, in order to change the existing bad image it has in the public. This task will primarily be entrusted to the newly-established public relations offices with the High Judicial Council and courts. The Council, and in time all lower courts as well, will use the automated system for monitoring the citizens' complaints, as well as for responding to them. Increasing the transparency of the court work is certainly a step in the right direction regarding fight against corruption.

The Strategy provides for the adoption of a new Law on Training of Judges, Public Prosecutors, Deputy Public Prosecutors and Judges' and Prosecutors' Assistants, which should create conditions for acquiring knowledge and skills necessary for efficient performance of judicial function. A significant supplement to this Law is the National Judicial Training Institute that the Government should establish by 2008. The function of the Institute, which will replace the existing Judicial Centre, will be to provide standardized initial and permanent advanced professional training at several levels for employees in the judiciary. Due to a large backlog of cases, the emphasis will be placed on case management techniques.

It is anticipated that the Institute diploma will become a highly respected criterion for the first election of candidates to judicial functions and, at the same time, permanent advanced training of holders of judicial functions will be mandatory. Furthermore, the colleges of law will be obliged to strengthen the departments that prepare lawyers for work in the judiciary, as well as to expand practical training.

In the introductory part, the Strategy identifies most of the problems the judiciary in Serbia is currently facing and properly formulates four key principles that should be fulfilled owing to the reform – independence, transparency, responsibility and efficiency.

The most sensitive part of the Strategy, which was the subject of a broad discussion in the period prior to its adoption, is certainly the

proposed functional connection between the Ministry of Justice and the new body – the High Judicial Council. On the one hand, opinion has prevailed in the expert public that a complete deprivation of the Ministry of Justice of administrative authority in favor of the Council would be inappropriate, because it is only applicable in the countries that already have a stable, well-accepted and respected judicial system, which is not the case in Serbia. On the other hand, one of the main criticisms is that this relation is not determined precisely enough and that the success of the Strategy will depend on the manner of its realization.

The Strategy Implementation Commission was assessed similarly. Its establishment and composition were welcomed (particularly the presence of representatives of the Assembly's Judicial Committee), but, on the other hand, the prevailing opinion is that the insufficient precision of the guidelines for its work leaves a lot of room for inefficiency and susceptibility to futile political discussions.

Evaluated particularly positively was the aspiration to a transparent and responsible judicial system and, before all, introduction of a transparent procedure of election, promotion and, in particular, dismissal of holders of judicial functions, which is a necessary precondition for restoration of confidence in the institutions.

However, when it comes to criticism, another three stand out – the assessment that, given the amount of necessary investments, the deadlines for introduction of the new judicial system are overly ambitious, as well as that it is necessary to separate the legal aid budget from the general budget for the judiciary and pay more attention to the citizens' rights.

Taking into account the state the judicial system in Serbia is in and the relatively poor reputation it enjoys in the society, the approach of joint responsibility and cooperation, with simultaneous provision of necessary independence to the judiciary, which was accepted in the Strategy, seems appropriate. Gradual transfer of authority from the Ministry of Justice to the High Judicial Council, an institution consisting of those who should be most familiar with the problems in this area and be able to solve them, constitutes the most significant part of the Strategy. The success of the reform will depend mostly on the successfulness of development of that process, and on the proper distribution of responsibility.

There are certainly no ready-made models for solving institutional problems, which is demonstrated by the solutions applied by other countries. What is the most important and, at the same time, the hardest is achieving the balance between different branches of power. The fact that all aspects of the judicial system are covered by the Strategy, although to a different extent, presents the first important step towards successful and efficient reform.

One of the essential problems, which is particularly pronounced in the judiciary, is the absence of a visible new beginning that would follow the

political changes initiated in 2000. In contrast to other branches of power, only minimum personnel changes took place in the judiciary. Therefore, apart from necessary procedural novelties, it is necessary to create clear characteristics of a new beginning in the judiciary as well, which would contribute to restoration of confidence. The establishment of the new Supreme Court of Appeals, which is provided for by the Strategy and confirmed by the new Constitution, could perhaps represent a symbol of a new beginning, especially because it is to have new headquarters, better equipment and higher wages.

The next important step towards establishing an efficient judicial system is the establishment of a standardized system of education and training. The National Judicial Training Institute, an institution accepted in a large number of other countries, which should start its work by 2008, should play a major role in that.

Finally, establishment and strict observance of clear criteria for judiciary performance assessment, as well as appointments, promotions and dismissals of holders of judicial functions should lead to radical changes. This will depend largely on the executive authorities, particularly the Ministry of Finance, and, ultimately, on the parliament to which the Ministry and the whole Government are responsible.

2.5. Anti-corruption Strategy

The National Anti-corruption Strategy should present a set of measures and activities that the government bodies will undertake in order to fight corruption. However, it may be concluded without any doubt that the Strategy in fact presents an internally inconsistent list of nice (and not so nice) wishes.

As for the consistency, perhaps it is best to start from the beginning of the text. The first paragraph states: "Corruption is an equally harmful phenomenon in the societies at all levels of development. The problem is larger and more difficult in the societies on the path of democratic transformation, because new needs dictate numerous tasks…" A question arises whether corruption is an equally harmful phenomenon in all societies (the first sentence), or whether it is indeed a larger problem in the countries in transition (the next sentence). This should only be an example of how the Strategy is written and how seriously serious matters were considered.

As for the definition of corruption, it seems that corruption is defined too broadly, or as "a relation established by abusing authority in the public or private sector for the purpose of acquiring personal benefit or benefit for another person". Such a definition is bad because it is necessary to define what is then considered as abuse; in particular, what exactly is considered to be an "abuse of authority in the private sector for the purpose of acquiring personal benefit", and how to differentiate the term "abuse" from the regular term "use".

The goal of the Strategy is stated to be a "reduction of corruption and achievement of anti-corruption culture at the level of developed European countries", which may be characterized as insufficiently precise. Firstly, the level of corruption varies even among the "developed European countries" (Finland and Italy, for example), and secondly, no indicators are mentioned on the basis of which the realization of this goal will be monitored. An unclearly defined goal may lead to a situation in which it is not known at all whether the goal has been achieved or not, as well as how far we are from achieving the goal, whether we are approaching it or not.

The assumption is that this goal will be achieved when the 16 mentioned sub-goals are achieved. Some of them are quite clear and justified (it may be assumed that they indeed represent a precondition for achieving the basic goal of the Strategy), like the "open and transparent procedure of planning and utilization of budgetary funds and public control over the use of budgetary funds". However, some of the mentioned sub-goals are rather unclear, or insufficiently precise, for example "permanent elimination of conditions for appearance and growth of corruption". What exactly this means and how it will be done remains completely undefined.

The corruption causes are defined rather poorly and vaguely. For example, the ownership structure in the economy is considered to be a source of corruption (probably with good reason), but for some reason the "ownership transformation" is also considered to be a source of corruption. Leaving aside the fact that the standard expression "privatization" is called "ownership transformation", a question arises whether it is justified to include privatization (if the term transformation implies privatization at all) as one of the causes of corruption. "Failure to observe market laws" is mentioned as another unclear cause of corruption. It remains completely unclear who fails to observe market laws and what this means at all ("failure to observe market laws" makes as much sense as "failure to observe the law of gravity"). Poverty is also mentioned as one of the economic causes. Again, a question arises – whose poverty and how it affects corruption. Does this refer to the poverty of employees in the state-owned sector, who try to attain a good level of the standard of living by taking bribes, or to the poor parts of the population? In any case, completely undefined and unclear. Standard thinking in the field of economic analysis of corruption is that poverty is a consequence and not a cause of corruption. More or less all causes usually thought of are mentioned as political causes of corruption, but it is unclear in what manner, say, the "uncertain legal status of the state" or "absence of consensus about strategic objectives of the state development" affect corruption. As for legal causes, the impression is that the right causes have been selected: failure to apply or selective application of regulations, existence of gaps in the law, discrepancy of regulations.

Consequences of corruption are grouped into two areas: economic and socio-political. Economic consequences are more or less indisputable,

such as jeopardizing market economy, GDP decrease, investment decrease, or increase in poverty. However, the following consequence is also mentioned – increase in the country's indebtedness. The mechanism of increasing a country's indebtedness due to high corruption is completely unclear and unknown in the economic literature, and it is not clear, either, what mechanism could lead to that. Furthermore, the indebtedness itself cannot necessarily be perceived as a bad thing. Financing through borrowing is not in itself, or does not have to be, an inferior way of financing.

After explaining the consequences of corruption, the Strategy continues with Chapter 2, which deals with giving recommendations by specific area. There are six areas in total: political system; judicial system and police; system of government administration, territorial autonomy, local self-government and public services; public finance system; economic system; media; participation of citizens and civil society in the fight against corruption.

A short overview of the basic measures proposed for each of these areas is given below, with a presentation of elements from the Action Plan for Strategy Implementation, which was adopted in the meantime. State when it was adopted

Political system

Generally speaking, the recommendations are too general, for example "increasing the efficiency of the supervisory function of the National Assembly" or "reinforcing the publicity and transparency of work of government bodies". These are indeed necessary reforms, but it is unclear what it means exactly. We assume that the idea was to describe such recommendations in more detail by the Action Plan. However, the Action Plan does not provide completely clear answers to the concrete questions relating to the recommendations from the Strategy, either. Although some actions were defined precisely, for example "Enable the public to access information of public significance in the premises of government bodies", there are still many unclear actions remaining, for example "execution of prescribed measures for the purpose of securing the right to appeal in cases of violation of the right to accessibility of information". Furthermore, the Action Plan was also expected to provide approximate estimate of costs for carrying out particular actions. However, we have mostly remained deprived of this information. In the field "Necessary resources" there are mainly the following data "No additional funds needed", or "Funds are needed for working groups, expert opinions and organization of round tables".

Some recommendations are, however, quite clear and seemingly completely justified. As an example, we may mention the recommendation to "limit the immunity to actions and statements made regarding the performance of public functions (material immunity)", or "providing special control of harmonization of regulations and their consistency from

the anti-corruption aspect". The last recommendation should be particularly commended. The fact is that so far nobody has explicitly been put in charge of performing such an analysis of regulations. Indeed, the Republican Legislation Secretariat performs a limited control of harmonization of regulations with the Constitution and other laws but, taking into account the Secretariat's capacity and the number of regulations that should be assessed, it is clear that they are unable to perform that function sufficiently well. It seems that a new, expert or operational body should do that work.

Legislative system and police

The impression is that this part of the recommendations is written most concretely and most clearly. Basically, a large part of the recommendations does not require additional improvements and in that sense it may be commended. As for the assessment regarding the contents of the recommendations, they appear rather consistent.

It seems that the basic idea of this group of recommendations is to offer both the stick and the carrot to the judiciary and the police, and to increase both the rights and obligations of the judiciary and the police. As for the rights, provision of appropriate wages and working conditions for the holders of judicial functions, establishment of permanence of the function for holders of public prosecution functions, independence of the judicial budget, provision of appropriate wages and working conditions for police officers are envisaged. Interestingly, in the "necessary resources" column it is written that "for the time being no financial funds may be determined" for the provision of appropriate wages for the judiciary as well as the police. Also, it is unclear why the "provision of appropriate wages" is placed within the competence of the Ministry of Finance, and not the ministries of justice and the interior, or at least the entire Government.

As for the stick, the following recommendations are given by the Strategy: introduction of disciplinary responsibility of the holders of judicial functions, introduction of periodic mandatory performance analysis of the bodies in charge of detection, prosecution and trials, combating corruption within the court administration, mandatory additional inspection of the prosecutor's office's decision in the cases in which proceedings have not been initiated or have been terminated for the criminal offences with elements of corruption, or in the cases of delaying criminal proceedings.

System of government administration, territorial autonomy, local self-government and public services

This part of recommendations is rather imprecise and full of commonplaces. Although territorial autonomies, local self-governments and public services are mentioned in the title, they were completely ignored

in the recommendations. All the recommendations refer solely to government administration in the narrower sense and essentially they may be reduced to the recommendations stated in the Government Administration Reform Strategy. Of the concrete things, the recommendation for the "introduction of the principle of rotating the officers of administrative bodies and public services at the positions liable to corruption" may be noted and commended, although it is already carried out in some government bodies.

The impression is that this part of the Strategy is insufficiently well written, especially taking into account numerous assessments that it is precisely the government administration, local self-government bodies and public services that are most exposed to corruption. It is completely unclear why the health care, education or inspection services are not mentioned here at all. It is not even emphasized, either, in which direction the fight against corruption at the local level will go.

Public finance system

The recommendations relating to the public finance system are mainly clear and relatively precise. There are obviously unclear and overly general recommendations here as well, such as "improvement of the existing regulations on the work of the Treasury", or "harmonizing the tax regulations with the European Union regulations", which is unnecessary, because the EU as such does not collect taxes, so it does not have its regulations, either. If some concrete directive or a concrete solution that has been applied in some of the member states is what was meant here, it should have been specified.

The recommendations relate to the revenue side as well as the expenditure side of the budget, but also to the procedure of public revenue collection and the procedures of public money spending. Reforms and a better control of work of the Tax Administration and Customs Administration have been touched upon, and certain changes of the public procurement procedure are suggested as well.

Economic system

The part dealing with the economic system is rather inconsistent, internally as well as with the rest of the Strategy. Although the first recommendation is quite commendable – "Limitation of the government's role in the economy to setting basic rules for fair competition, freedom of agreement negotiation, creation of environment suitable for efficient business operation, as well as to regulating major disruptions in the market" – the impression is that this statement is a result of a fair lack of sincerity or perhaps competence, taking into account the other recommendations.

Also interesting is the recommendation to "introduce an independent body for control of the privatization process" in the year when the

privatization of the socially-owned sector should be completed. It is also unclear why the recommendation on the "establishment of mandatory internal control in the public sector" was put in this chapter and not in the chapter dealing with administration and public services. One of the recommendations is also the "establishment of independent external audit of accounting operations of the largest economic entities". We are of the opinion that this is completely unnecessary when it comes to private companies whose shares are not traded on the stock exchange. The transparency of their operations should simply imply paying taxes and end with that, if they assess that it suits them so. Everything else may be considered with good reason to be a violation of privacy. It is also unclear what it has to do with corruption.

It is really strange that so little space was dedicated to this chapter. Taking into account the theoretical, as well as empirical evidence that the government intervention in the economy is the basic generator of corruption, it is simply unbelievable that the recommendations have remained so superficial. Foreign trade, licenses, consents, inspection supervision, monopolies established and maintained by the state, industry entry barriers, the whole areas of town planning and construction, public companies and similar have not been mentioned with a single word.

The media

As for the media, first of all, their great role in corruption prevention is indisputable. However, many of the recommendations stated in the Strategy are disputable, particularly the recommendation to perform a "differentiation between the advertising activity and the informative function within the media". The recommendation itself is not clear in the sense of how to do it, or how to force the media to do it without violating the independence of the media. In democratic countries, the media formulate their editorial policy by themselves and are allowed to report in a biased manner, if they wish to do so.

The Action Plan suggests the following activities: organization of public debate on the subject "analysis of regulations and possible preparation of amendments to the regulations and their adoption and taking care of the media independence and objectivity". Of course, we may be worried most by the second item, i.e. the possible preparation of amendment to regulations, which may mean any number of things. It is also completely unclear what the following recommendation means (and it is not clarified by the Action Plan, either): "prescribing sanctions against trading media influence".

Participation of citizens and civil society in the fight against corruption

It is quite clear that the active participation of civil society is one of the preconditions for corruption level reduction. An "outsider" is simply

necessary, because the government apparatus will not reform by itself, without external pressures. The recommendations mostly amount to informing and educating citizens, as well as to "including civil associations in the activities of government bodies in the fight against corruption", which can be generally assessed as good. However, one of the potentially dangerous recommendations says: "provision of full transparency of financial operations and work of civil associations". Such a recommendation may sound, particularly in Serbia, as a veritable threat ("if we are not satisfied with your selection of corruption cases, we shall send you the financial police") in advance to discourage some civil associations from serious and unbiased calling attention to corruption in the government bodies.

The Anti-Money Laundering Law

The main goal of passing the 2004 Anti-Money Laundering Law was to improve significantly the efficiency of detecting and preventing this criminal offence. The legislator wanted to define the obligations of obligors more precisely than it was defined by the previous law passed in 2001 at the federal level, thus facilitating anti-money laundering activities.

During the preparation of the law, the interested parties had the opportunity to state their opinions. The Anti-Money Laundering Agency organized meetings and seminars at which the government bodies obliged to fight against money laundering were informed about the solutions in the Draft Law, and some of the opinions they stated were incorporated in the Law. The Agency also organized a series of seminars for obligors, at which they were informed about the novelties introduced by the new Law. Even after the Law came into force, the Agency stayed in regular contact with the obligors and government bodies.

This law, first of all, defines money laundering and prescribes actions and measures undertaken for the purpose of its detection and prevention. It also regulates the authority of the Anti-Money Laundering Agency, as well as of other bodies in charge of enforcing this law. The law also defines the obligors who are obliged to undertake actions and measures for the detection and prevention of money laundering, as well as these actions and measures. Certainly the most significant obligation is party identification in each transaction (cash or cashless), or in several mutually connected transactions, the amount of which is 15,000 euros or more, in dinar equivalent.

Special sections of the law are dedicated to obligations of audit companies, certified auditors and legal and natural persons responsible for keeping business books or dealing in tax consulting, as well as to data recording, protecting and keeping. These obligations are specified precisely and, in case of suspected money laundering, the mentioned obligors are obliged to notify the Agency accordingly. It is characteristic

that on the basis of the Ministry of Justice's opinion this obligation was not introduced for lawyers and lawyer's offices. This obligation is required by the international standards, primarily the Second Directive of the European Union on Prevention of the Use of the Financial System for the Purpose of Money Laundering. The Directive prescribes explicitly the obligation for lawyers to report suspicious transactions of their clients when representing the clients in specific transactions that are not exclusively transactions related to lawyers' work.

As regards data protection, all information and documentation are protected as official secret and may be used solely in accordance with the Law. This means they may be forwarded only to the competent government bodies or the government bodies of foreign countries and international organizations under the condition of reciprocity, as well as on the basis of signed agreements on cooperation and data exchange. An additional condition is that the state to which the data are forwarded has regulated the protection of personal data. As for the records, all data that the obligors and the Agency are obliged to keep records of are defined and mentioned in the Law. Compared to the law previously in force, the number and types of data have increased, with the aim of enabling more complete records and search according to various parameters. In accordance with international standards, a time limit is also defined within which the obligors are obliged to keep the data and documentation.

The Law also defines supervision over the enforcement of the Law. The following are listed as institutions in charge of supervision: the Anti-Money Laundering Agency, the National Bank of Serbia, the ministry in charge of internal affairs, the ministry in charge of finance, the Securities Commission and other inspection bodies that, in accordance with other laws, are competent for the performance of inspection supervision. Also, the Law introduced significant changes in the penal provisions compared to the previous law and increased the penalties in accordance with the Law on Economic Offences and the Law on Infractions. The criminal offence of money laundering is in line with the codification of criminal legislation, regulated by the new Criminal Code.

The most significant assessments of the Law were given by the Anti-Corruption Council and the OSCE, with the domestic institution leveling most criticism. Namely, the Council stated the following as the main shortcomings:

- *Unclear concept of money laundering* – according to the Council, "introduction of illegally acquired money into legal financial flows" should stand instead of "covering up the illegally acquired assets";
- *Disputable independence of the Anti-Money Laundering Agency*, since it is an integral part of the Ministry of Finance;
- *Privileged position of the Minister of Finance* – he/she regulates the anti-money laundering methodology and procedure and has a

discretionary right to exempt certain obligors from reporting the financial transactions that exceed EUR 15,000;
- *There are no sanctions for a failure of government bodies to fulfill the obligation* to provide information to the Agency;
- *Too many economic entities having the obligation to cooperate with the Agency* – according to the Council, the obligation to control a wide range of transactions will overload the Agency.

In contrast to the Council, the OSCE was somewhat more balanced in its evaluation:
- *The definition of money laundering is "substantively" in accordance with the European Convention on Money Laundering*;
- *Unclear definition of the origin of assets from money laundering* – whether that origin is just direct or also indirect. The question is where the connection between illegally acquired assets and legal business ends. The OSCE emphasizes the special importance of this in the privatization process;
- *Unclear mechanism of seizing illegally acquired profit.* Confiscation of illegally acquired assets is prescribed in Serbia; however, according to the OSCE, the question is how efficient it is in the well-developed money laundering schemes;
- *Excessively long list of obligors* which leads to the overloading of the Agency with materials;
- *Absence of obligations of the institutions that are at least partially financed from the budget*, which is, according to the OSCE, especially problematic for the Privatization Agency.

The Anti-Money Laundering Law has certainly brought positive novelties compared to the law previously in force. First of all, obligations of obligors are defined in detail, institutions in charge of the enforcement of the Law are clearly specified and penal provisions are harmonized with the severity of criminal offence. On the other hand, the Law contains several significant unclarities that have negative consequences: the money laundering definition itself is insufficiently clear, the list of obligors is too long, which led to the overloading of the Agency (around 1,000 cases a day) and its inability to process the materials adequately, the independence of the Administration is disputable and mostly depends on the personality of the Minister of Finance, while the absence of sanctions practically leads to the absence of obligation of government bodies to provide relevant information to the Agency.

Although 0.2% of financial transactions have been assessed as suspicious so far, which is within the range of the European average, the disproportion between the registered sum of illegal profit and the sum registered as suspicious transactions (approximately 5:1) indicates that the Law is not enforced efficiently. If we add to this that so far there have been practically no judgments for money laundering, but only a large number of reports, a small number of registered suspicious transactions, and an even smaller number of activities of the prosecutor's office and the police, it is clear that a lot still remains to be done in this area.

The Law on Free Access to Information of Public Significance

The Law on Free Access to Information of Public Significance was passed in November 2004. There were four basic reasons for passing it:

- possibility for citizens to control government bodies efficiently, which is a precondition for the existence of a truly democratic society;
- related to the previous item, existence of legal rules on free access to information of public significance indicates the development level of democracy in every society;
- provision of necessary conditions for efficient work of the media that have a specific role in the control of government bodies;
- fulfilling the requirements of the Council of Europe (in February 2002, the Committee of Ministers of this international organization adopted the *Recommendation on Access to Public Documents* by which it called on the member states to adopt legal rules that will protect the interests of individuals in more efficient control of work of government bodies. The *Recommendation* also defines the legal standards that should be adhered to when adopting these new rules).

The civil sector had the key role in the preparation of this law. Namely, the Belgrade Centre for Improvement of Legal Studies prepared a model of the law that served as the basis for the draft law adopted by the Serbian Government in July 2003. However, due to the assembly dissolution that followed soon, the law was passed, with minor changes, as late as in November the following year. This occurred largely owing to the activities of NGOs and, above all, the *Coalition of Non-governmental Organizations for Freedom of Access to Information,* established at the initiative of the Fund for Open Society.

The Law, first of all, defines the terms "information of public significance" and "public authority", determines the justified interest of the public to know, as well as the limitations of the right to access this type of information. The Law also establishes the institution of the Commissioner for Information of Public Significance, determines his position and authority, as well as the rules on protection of the rights of the requesting party before him. Furthermore, the Law defines the rules on the manner of exercising the rights guaranteed by the law in the proceedings before a public authority, as well as the measures for improving the publicity of their work. Finally, the law also prescribes damages or fines if the authority unjustifiably denies or limits the rights to access information of public significance.

Information of public significance available to the public authority is defined by the law as the information about everything that anyone has a justifiable interest to know about, while the definition of public authority includes not only all government bodies, bodies of territorial autonomy and local self-government, but also the persons entrusted with exercise of public authority, as well as the legal persons established or financed wholly or predominantly by a government body.

As regards justified interest of the public to know, the law determines that it always exists when it comes to the information relating to endangering or protection of health of the population and natural environment, as well as when it comes to the information that originated in the course of work or in connection with work of authorities and the information more than twenty years old.

The law defines the principle of equality in exercising the rights, primarily the following: the right to be notified whether the public authority possesses certain information of public significance, and whether it is otherwise available, then the right to have insight into the document containing the information of public significance, the right to a copy of that document, as well as the right to delivery.

The Law also prescribes limitations of this right:

- endangerment of life, health, security or other important property of a person;
- endangerment, hindrance or obstruction of prevention or detection of a criminal offence, charging with a criminal offence, conducting pretrial proceedings, conducting court proceedings, execution of sentence or execution of penalty, or some other legally regulated proceedings, or fair treatment and fair trial;
- serious endangerment of national defense or public security;
- substantial reduction of the Government's ability to manage economic processes in the country, or substantial obstruction of realization of justified economic interests;
- if the disclosure of the information designated as secret could lead to severe legal or other consequences to the interests protected by the law that prevail over the interest to access information.

Finally, excluded from the general legal regime of access to information of public significance is the information that is not of a public character, or if the right to privacy, the right to reputation or some other right of the persons the requested information personally relates to would be violated by it.

As for the rules on the manner of exercising the rights guaranteed by the Law in the proceedings before a public authority, the most important is the provision that the requesting party does not have to state the reasons for the submitted request. The Law also prescribes the deadlines within which these authorities are obliged to respond to those requests (not longer than 15 days), as well as the fees for necessary costs of making the copy of the document containing the requested information.

The public authority is also obliged to forward the received request to the Commissioner for Information of Public Importance in case it is found out that the document containing the requested information is not in its possession. The Law also defined the rules of the Commissioner's conduct in this case, as well as in case of appeal against the public authority's decision and the so-called silence of administration. The Commissioner also has the opportunity to conduct investigations

independently, and the Law also contains provisions on validity or the binding character of the decisions and resolutions made by him, as well as provisions on legal remedy against his decisions.

The provisions by which the Commissioner is established and precise rules on his election and term termination, position and authority are defined are based on the intention to ensure his independent position, so they largely rest on the rules of judge appointment and dismissal.

The Law also provides for several different legal mechanism for improving the publicity of work of authorities, among which the following are the most significant:

- the Commissioner's obligation to publish and keep up-to-date a manual with practical instructions for efficient exercise of legal rights and inform the public about its contents;
- obligation of public authorities to appoint a spokesperson who, inter alia, receives requests and provides the requesting parties with necessary assistance in exercising their rights, receives complaints on the work of the authority and takes care of the information carriers, as well as to publish a regular annual information booklet with the data about its work;
- obligation of government bodies to conduct training of employees in connection with its enforcement;
- obligation of the spokespersons to submit to the Commissioner a regular annual report with the data relevant for exercising of the right to access public information.

According to the Law, public authorities are liable for the damage caused by the fact that a medium was unable to publish the information because an authority has denied or limited without justification the rights to access information of public significance, and fines are prescribed in the area of offence sanctions for violating the provisions of this law. Finally, the Ministry competent for information affairs is in charge of supervision over enforcement of this law.

A comprehensive assessment of the law and its application was given by the already mentioned Coalition for Freedom of Access to Information. Namely, in the period from January 1, 2005 to June 30, 2006, the Coalition conducted a monitoring of the application of this law. The basic conclusion contained in the monitoring report is that the problems in the implementation of the law are least of all the consequence of the legal text itself, and the following are mentioned as the three most significant obstacles to its more successful application:

1. Normative environment

The greatest danger for the application of the law is the possibility of derogating its rules by provisions of other legal texts. That was done, first of all, by the Law on Police, by which the extent of freedom of access to information was reduced. The problem is also the absence of the Law on Secret Data, as well as an appropriate new Law on Personal Data Protection.

2. Insufficient interest of entitled persons

The monitoring showed that neither the citizens nor the media nor the non-governmental organizations are using the freedom of access to information to a sufficient extent.

3. Ignorance and obstruction by public authorities

The following are stated as the most frequent problems with enforcing the law in connection with the activities of public authorities:

- insufficient familiarity with the law, especially as regards public officials at the local level;
- frequent attempts to avoid obligations and duties arising from the law by arbitrary interpretation of its provisions or by invoking secrecy as the reason for refusing to provide information;
- exceeding the time limits, or the so-called silence of administration (in almost 50 percent of cases of sent requests);
- insufficient capacities of the Ministry of Culture (the line ministry in charge of supervision over enforcement of the law) for initiating infraction proceedings against the responsible authorized persons not acting in accordance with the law;
- failure to fulfill the obligation of forwarding requests to the Commissioner in case when the public authority does not possess the document containing the requested information;
- many public authorities have still not appointed an authorized person for handling the requests in connection with the law;
- most of the government bodies do not observe the legal obligation of publishing an information booklet and of training the employees in connection with the enforcement of the law.

However, when it comes to the shortcomings of the legal text itself, the Coalition points to the following:

- impossibility of lodging an appeal to the Commissioner against the decisions of the highest authorities – the National Assembly, President of the Republic, Government of the Republic of Serbia, Supreme Court of Serbia, Constitutional Court and the Republican Public Prosecutor;
- absence of obligation of all public authorities to publish an information booklet;
- absence of protection of insiders – the so-called "whistle-blowers".

In its report, the Coalition also commended the work of the Commissioner for Information of Public Significance and of his office.

As could be seen from the previously mentioned, the law has been implemented with great difficulties from the very beginning. One of the reasons for slow enforcement is that the Commissioner has been without the basic work resources for a long time (appropriate premises, budget, assistants). The Government, which did not provide the necessary resources on time, is responsible for this. The second important reason is that a new right is introduced by the law – the right of the public to know, which presents a great novelty in the society with inherited well-developed "culture of secrecy".

Therefore, a necessary precondition for a proper application of the Law is continued education, media and other forms of campaigns directed towards citizens as well as towards public authorities. Certainly, the fact must not be disregarded that a serious shift has already been made in the area of education, primarily owing to the activities of the Commissioner, Coalition and other non-governmental organizations, as well as of some international organizations, primarily the OSCE Mission to Serbia.

In addition to intensified education activities, amendments to the law itself are also necessary, primarily because the most important government bodies are exempted from its application, as well as because of the limitations that are not defined precisely. Therefore, the Coalition formulated amendments that need to be adopted, the most important among them being the following:

Ensuring the right to appeal to the Commissioner against the decision of the President of the Republic, National Assembly, Government, Supreme Court, Constitutional Court and the Republican Public Prosecutor as well;

- Increasing liability in case of violating the law;
- Provision of efficient system of supervision over the application of the law;
- Protection of "whistle-blowers".

The new Constitution of the Republic of Serbia also took into account the recommendation that the right to access information be included in the corpus of human rights as a separate human right (Article 51). On the other hand, however, the Commissioner for Information of Public Significance has not become a constitutional category.

In addition to the previously mentioned amendments to the law, it is necessary also to ensure the observance of the principle of legal text hierarchy and the principle of legal system unity, as well as to pass a new Law on Handling Secrets and Law on Personal Data Protection.

Conclusion

Although a large number of laws have been passed that are the legal basis for direct policies of the Government in the anti-corruption sphere, it certainly has not led to a significant shift in the sphere of direct anti-corruption policies. The reasons should be sought in the following. First, the analysis showed that many of these laws or documents do not contain optimum solutions but that compromises were made in that sphere, bearing in mind political and other interests of parliamentary parties. This relates particularly to penal provisions. Secondly, and probably more importantly, some legal solutions have not been applied (not applied consistently, and in some cases not applied at all), since that, on the one hand, was not in the interest of the parliamentary parties, while on the other hand there were no appropriate administrative capacities. Third, operative documents, such as strategies (fight against

corruption, or judiciary reform) have been formulated not because there were autochthonous political motives for that, but mostly under the pressure of the international community and donors, particularly multinational European organizations, and with their active participation. Because of that such documents include to a large extent the positions or desires of those organizations, i.e. strategy elements that are better suited to some other countries, particularly those that have a far greater administrative capacity than Serbia.

However, the key cause of modest results in the sphere of direct anti-corruption policies lies in the lack of political will – fight against corruption is not at the top of the political priorities of the authorities. There are several reasons for that. First, the governments in Serbia are coalition governments, which means a number of diverse parties participate in them. Internal stability of those governments depends on a special balance achieved within the coalition, and corruption very often plays a significant role in achieving such a balance – there is not a single incentive for the Prime Minister of such a government to disclose corruption scandals of his/her coalition partners, since undisclosed rather than disclosed scandals of that kind represent a powerful weapon for political blackmailing of the partner and keeping the balance (of fear). Even if there is no previously mentioned mechanism, coalition governments are unstable by their very nature, so they have no solid basis for a strong fight against corruption. Only the creation of a powerful government may create a precondition for effective fight against corruption.

INTERNATIONAL ANTI-CORRUPTION ASPECT

Introduction

The authorities in Serbia place, at least formally, international standards and obligations in the center of fight against corruption. Namely, stated in the introductory part of the National Anti-corruption Strategy, adopted in December 2005, as the starting basis is the "Comprehensive Anti-corruption Policy of the European Union". Moreover, a special emphasis is placed on the "Ten principles for improving the fight against corruption in acceding, candidate and other third countries", which are, at the same time, an integral part of this policy[1]. Having in mind the fact that the EU integration has been declared to be a priority, fulfilling the mentioned ten principles should be certainly

[1] Among these criteria are the following: clearly expressed political will for fight against corruption; adoption and application of national anti-corruption strategies or programs; ratification and implementation of all most significant international anti-corruption instruments; competent and visible anti-corruption bodies; openness, competence, responsibility and transparency of government administration; conducting campaigns for raising awareness of the gravity of the corruption problem; clear and transparent rules of political party financing; creation of incentives for the private sector to abstain from corruption.

among the top priorities on the authorities' agenda. Namely, in this document the European Union requires explicitly all the countries that want to become its members not only to adopt the EU *Acquis* but also to ratify and apply all the most significant international anti-corruption instruments, particularly stating the relevant conventions of the United Nations, Council of Europe and the OECD. According to the EU, progress in corruption elimination and institution strengthening are essential for further development of the West Balkan countries.

Apart from this wider, regional approach to the problem of corruption, through different forms of relations, firstly with the Federal Republic of Yugoslavia, than the State Union Serbia and Montenegro and finally with the Republic of Serbia, the European Union has been pointing out the problem of corruption, mostly within the wider issues of the rule of law. This also applies to negotiations on the Stabilization and Association Agreement, which were suspended in May 2006 due to the absence of full cooperation with the Hague Tribunal. Namely, the anti-corruption problem is mentioned in Section 7, *Justice, Freedom and Security*, which has not been discussed yet, within the part dealing with institution strengthening and the rule of law.

When it comes to specific issues in connection with corruption raised by the European Commission after the adoption of the Draft Constitution in the Assembly of Serbia in late September 2006, a special emphasis was placed on the issue of the judiciary independence.

Overview of formal fulfillment of international standards

When it comes to formal fulfillment of international anti-corruption standards, the Republic of Serbia (until May 2006 in the state union with Montenegro) has signed and ratified a number of agreements. This process has been developing more slowly compared to the other countries in the region, primarily due to the nonfunctional State Union Serbia and Montenegro, formed in spring 2003, within whose competence was ratification of international agreements. Thus, most of the conventions were ratified in the period of existence of the Federal Republic of Yugoslavia, immediately after the constitution of the democratic government in Serbia at the beginning of 2001.

The following conventions were ratified:

1. The UN Anti-corruption Convention (2005)

The goals of the Convention are the improvement and strengthening of measures for more efficient and more successful fight against corruption and its prevention, as well as facilitation of international cooperation and intensification of technical assistance, including return of illegally acquired assets as well. It also serves as a reference point to the governments, citizens and donors in their work and provides standards for the areas such as ethics in the public sector, access to information and codes of conduct in the private sector.

2. *The Council of Europe Criminal Law Convention on Corruption* (2002)

The main goal of this ambitious instrument is achieving efficient cooperation in criminal matters at the international level. It also contains additional criminal-law measures for improvement of international cooperation in prosecuting perpetrators of corruption acts. The implementation is supervised by the GRECO – the Group of States Against Corruption. It covers a wide area and supplements the existing legal instruments.[2] When handing over the ratification instrument, S&M made a reservation and retained the right to refuse the requests for international legal aid "if they relate to an act that has the character of political act according to domestic law." This reservation was revoked in late 2005 when an amendment to the Law on Ratification of the Council of Europe Criminal Law Convention on Corruption was adopted.

3. *The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* (2002)

A significant instrument in money laundering prevention, particularly focused on the sources of financing. This convention is to be replaced by the 2005 *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism*, which has not come into force yet and which contains the obligation of introducing preventive measures as well as intensifying international cooperation in this area. When handing over the ratification instrument, S&M made a reservation according to which certain confiscation measures would be applied only under the conditions prescribed by our criminal legislation. Since the Council of Europe Legal Advice Department and Treaty Office assessed the mentioned reservation to be unacceptable, because it would limit the application of confiscation measures that, according to the definition of the convention, relate solely to the assets acquired by committing criminal offences, in late 2005 the Assembly of the S&M adopted the amendments to the Law on Ratification of the Convention, by which this reservation was revoked.

4. *The United Nations Convention against Transnational Organized Crime* (2001)

It requires the signatory states to stipulate in their legislation measures for prevention of participation in organized groups, whose criminal activ-

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2 Among the corruptive activities the Convention covers are the following: active or passive bribery of domestic and foreign government and international public officials, members of parliament, members of private sector, judges and members of courts; active and passive influence trading; money laundering as a result of corrupt activities; accounting infractions related to corrupt activities. According to the Convention, the countries are obliged to undertake efficient sanctions and measures that also include arrest and extradition. The Convention also contains the criteria for determination of country jurisdiction, liability of legal persons, establishment of specialized anti-corruption bodies etc.

ity is aimed at illegal financial benefit, money laundering, corruption and obstruction of justice. It also requires them to engage in international cooperation in this area. Two additional protocols for prevention and punishment of human trafficking and migrant smuggling were also ratified together with this convention.

5. *The European Convention on Mutual Assistance in Criminal Matters with additional protocol* (2001)

According to this convention, the states that acceded to it undertake to provide the widest legal aid possible in any proceedings relating to criminal offences the prosecution of which falls within the competence of the state that sent the request. The procedure of that cooperation is also specified by it.

In addition to the previously mentioned ratified conventions, **Serbia also signed the following conventions:**

1. *The Council of Europe Civil Law Convention on Corruption* (2005)

The basic goal of the Convention is the provision of efficient legal instruments by each state in its internal legislation to those suffering the damage that is a consequence of corruption, so that the injured parties could defend their rights and interests, including the possibility of receiving compensation for the damage. The convention also contains the definition of corruption, which enables its application to corruption in the private sector and in the public sector, as well as at the international level. The formal reason that the convention has not been ratified yet is poor translation. Although it was expected that the dissolution of the State Union will accelerate the ratification process and that it would occur by the end of 2006, the instability of the Government, the adoption of the new Constitution and early elections postponed the whole procedure until the constitution of the new parliament, and formation of the new Government.

2. *The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* (2005)

As stated previously, this convention should replace the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and that is the first international agreement that simultaneously covers prevention and control of money laundering and terrorism financing. The formal reason that the convention has not been ratified yet is also poor translation. Therefore, the ratification of this convention will also have to wait for the new parliament.

3. *The Council of Europe Convention on Cybercrime and Additional Protocol* (2005)

It requires the countries of the Council of Europe and of the European Union to cooperate mutually in the fight against "cybercrime", and the developed countries to provide aid in that fight to less developed countries in equipment and training. The Convention includes in the forms of that crime disallowed access to information and their illegal interception, data changing, deletion and falsification, disruption of computer systems

and sale of hardware and software the purpose of which is illegal. Other forms of that crime are the violation of copyright and related rights, and piracy over the Internet, as well as data falsification, or manipulating computer systems for the purpose of acquiring illegal profit. This convention has not been ratified yet, either, due to poor translation, and the problems with technical terms, as well as because no reservations have been made. As in the case of the previous two conventions, the ratification is expected in the new parliament.

4. *The Additional Protocol to the Council of Europe Criminal Law Convention on Corruption* (2005)

The Protocol expands the scope of the Convention and supplements the provisions whose objective is the protection of the judiciary from corruption. The states that ratify this document are obliged to adopt necessary measures by which active and passive bribing of domestic and foreign arbitrators and jurors would be considered a criminal offence.

The Republic of Serbia has not signed the *OECD Convention on Combating Bribery of Foreign Public Officials*, either, because it was suggested by this international organization that it was too early for that.

International anti-corruption cooperation

The Republic of Serbia has well-developed international anti-corruption cooperation. It participates in a number of international programs, bodies and initiatives, and bilateral cooperation programs are taking place as well. Certainly, the most significant projects are those carried out by the Council of Europe, whether by itself or together with the European Commission, of which three have a regional character:

1. The Council of Europe *PACO Impact Project*. This project supported the implementation of the anti-corruption plans in Southeast Europe. Within this project, the Ministry of Justice of the Republic of Serbia has begun the introduction of Integrity Plans in district courts and the district attorney's office in Belgrade. The project was completed in July 2006.
2. *The CARDS Justice Project* – a joint project of the Council of Europe and the European Commission, whose goal is to establish an independent, reliable and functional judiciary, as well as to promote court cooperation in the West Balkans. In Serbia, it is implemented in cooperation with the Ministry of Justice and is primarily directed to institutional capacity building.
3. *The CARDS Police Project* – a joint project of the Council of Europe and the European Commission. The project's goal is strengthening the capacity of the police in fighting felony in the Southeast Europe. In the Republic of Serbia, support has been provided to institutional capacity building of the Ministry of the Interior – primarily the Organized Crime Directorate and the Criminal Police Directorate, as well as to developing a modern border management system.

Cooperation with the Council of Europe.

The Republic of Serbia is also active in the work of the Council of Europe bodies and programs, such as the Council of Europe Group of States Against Corruption (GRECO), the Council of Europe Program Against Corruption and Organized Crime in Southeast Europe (OCTOPUS) and the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), and it also participates in the PACO-Serbia Program.

As a member of the *Council of Europe Group of States Against Corruption (GRECO)*, Serbia has responded to the first and second evaluation rounds. The evaluation team of this body of the Council of Europe visited Serbia in September 2005, its report was adopted in June 2006 and published in October of the same year.

It is emphasized in the report that the corruption in Serbia is a significant problem encompassing a large number of areas. The judiciary, local self-government, customs service, police and health care service are particularly emphasized as the sectors in which corruption is most apparent. On the other hand, efforts the authorities invest in the fight against this phenomenon are welcomed and the creation of the anti-corruption strategy and the action plan for its implementation are particularly singled out in this, as well as the judiciary reform, whose goal is to provide its integrity and better functioning.

The report also contains 25 recommendations whose fulfillment, as well as the submission of the report on their realization, is expected by the end of 2007. The most significant recommendation is the pointing out to the need for greater specialization and cooperation of the bodies engaged in detecting and prosecuting perpetrators of corruption. However, when it comes to government administration, a faster establishment of the institution of Ombudsman at the country level, adoption and dissemination of the code of conduct of civil servants at the national level, expanding of the existing rules on the conflict of interest to all government officials, as well as provision of appropriate protection of "whistle-blowers" are demanded. The GRECO also recommends the establishment of liability of legal persons for corruption, money laundering and trading influence, as well as efficient, appropriate and deterrent sanctions. The level of fulfillment of these recommendations will be assessed in the first half of 2008.

As regards cooperation within the *Council of Europe Program Against Corruption and Organized Crime in Southeast Europe (OCTOPUS)* and the *Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL)*, a number of workshops and conferences have been organized, and the Anti-Money Laundering Agency, in accordance with its authority, cooperates actively in this area. The Agency has also been a member of the international association of financial intelligence services – the Egmont

Group since July 2003, or since the time when the Federal Anti-Money Laundering Commission, established one year earlier by the Anti-Money Laundering Law, was transferred into the competence of the Republic of Serbia and changed its name. Membership in the Egmont Group is possible when an institution meets internationally recognized criteria, and when it is able to exchange financial intelligence with the related institutions throughout the world in an efficient and safe manner.

Finally, within PACO-Serbia, the Council of Europe Program Against Corruption and Organized Crime in Europe, also financed by the European Union, support was given to the project of fight against economic crime, money laundering and terrorism financing, as well as cybercrime. The project started in December 2005 and will last 24 months.

The project goals are the following:

- support in preparing national legislation for fight against economic crime and provision of its compliance with the existing international standards, as well as elimination of any non-compliance;
- familiarizing the legislators as well as those enforcing the law, judges and prosecutors, with the best practice in criminal law and system of law application in other countries;
- strengthening the system of preventing money laundering and terrorist financing through training, improvement of legislation and development of an IT department in the Anti-Money Laundering Agency of the Ministry of Finance;
- improvement of capacities for fight against cyberterrorism through training and aid in fulfillment of international standards;
- assistance in ratification and incorporation into the national legislation of the European treaties Serbia has not acceded to yet (especially the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism).

Cooperation with other international organizations and foreign partners

The Government of the Republic of Serbia cooperates actively in the anti-corruption sphere with other international organizations and foreign governments as well, with whose help a number of conferences, seminars and working visits have been organized, particularly significant of which are the two initiatives under the auspices of the Stability Pact: *the Southeast Europe Stability Pact Anti-corruption Initiative* (SPAI) and the *Initiative Against Organized Crime* (SPOC).

The Republic of Serbia participated in the establishment of the SPAI Secretariat in Sarajevo, as well as in the seminars where knowledge was exchanged about the best ways to fight corruption, whose special goals were the creation of a regional framework for information exchange,

improvement of regional cooperation by establishing direct contacts between the members of the ministries of the interior and formulation of the proposal for improvement of national legislation and institutional framework. Representatives of the Republic of Serbia also regularly participate at the meetings of the SPOC Council that are held twice a year and at which national and regional strategies of fight against organized crime are discussed, as well as the issues of capacity strengthening, legislative reforms and raising the awareness of the gravity of this problem.

When it comes to the regional dimension of fight against corruption, this issue has also been discussed regularly within the *Southeast European Cooperation Process* (SEECP), as well as the *Anti-corruption Network for Transition Economies* (ACN).

The Republic of Serbia also cooperates with other international organizations, such as the World Bank and the OECD, as well as with the international aid agencies of other countries such as DFID, USAID, OECD, CIDA, and with other relevant institutions in draft preparation and application of anti-corruption regulations and strategies.

Last, but not least, Serbia also participates in the *International Chamber of Commerce Anti-corruption Program*, and the cooperation has also been established with the *FBI International Law Enforcement Academy* (ILEA), whose courses are attended by the members of the Ministry of the Interior.

Also, within the Twinning Project of support to institutional capacity building of the Ministry of Justice, this ministry, in cooperation with the Slovenian Anti-corruption Commission, works on the preparation of the Action Plan for Anti-corruption Strategy Implementation.

Future necessary standards and activities

In spite of the fact that Serbia has ratified most of international anti-corruption instruments, as we have already seen previously, a certain number of international conventions and documents still remained to be ratified:

1. Council of Europe Civil Law Convention on Corruption;
2. Additional Protocol to the Council of Europe Criminal Law Convention on Corruption;
3. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism;
4. Council of Europe Convention on Cybercrime and Additional Protocol.

In the future, Serbia is to sign and ratify the OECD Convention on Combating Bribery of Foreign Public Officials.

However, considerably more important than the adoption of the previously mentioned international instruments is the application of international standards, primarily concentration on the fulfillment of

the GRECO recommendations and the "Ten principles for improving the fight against corruption in acceding, candidate and other third countries" that constitute an integral part of the National Anti-corruption Strategy. Therefore, it is crucial to undertake the following steps:

- pass the Law on Anti-corruption Agency and establish it;
- prepare and apply the Action Plan for Anti-corruption Strategy Implementation;
- establish the Ombudsman institution at the national level;
- establish the state audit institution;
- improve the application of the Law on Public Procurement;
- expand the application of the Law on Conflict of Interest;
- improve capacities and coordination between the government bodies in charge of fight against corruption;
- improve regional and international cooperation.

Overview of formal fulfillment of international standards

UN Anti-corruption Convention	Ratified(2005)
UN Convention Against Transnational Organized Crime and additional protocols to the UN Convention Against Transnational Organized Crime for prevention and punishment of human trafficking and against migrant smuggling	Ratified (2001)
Council of Europe Criminal Law Convention on Corruption	Ratified (2002)
Additional Protocol to the Council of Europe Criminal Law Convention on Corruption	Signed (2005)
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime	Ratified (2002)
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism	Signed (2005)
Council of Europe Civil Law Convention on Corruption	Signed (2005)
Council of Europe Convention on Cybercrime, as well as Additional Protocol	Signed (2005)
European Convention on Mutual Assistance in Criminal Matters with additional protocol	Ratified (2001)
OECD Convention on Combating Bribery of Foreign Public Officials	Not signed

Overview of participation in international anti-corruption programs, bodies and initiatives

Bodies and programs of the Council of Europe	Joint projects of the Council of Europe and the European Commission	Regional initiatives	Other
GRECO – Council of Europe body	CARDS Justice	SPAI – Southeast Europe Stability Pact Anti-corruption Initiative	World Bank, THE OSCE. UNDP, OECD (Cooperation with other international organizations)
OCTOPUS	CARDS Police	SPOC – Initiative Against Organized Crime	DFID, USAID, OECD, CIDA (cooperation with agencies for international aid of other countries)
MONEYVAL	PACO Serbia	Anti-corruption Network for Transition Economies	International Chamber of Commerce Anti-corruption Program
PACO Impact		SEECP	Twinning EU

Conclusion

Starting from 2001, Serbia has ratified a large number of international anti-corruption instruments, although a certain number of international conventions and documents still remains to be ratified. The problem, however, is not about which documents Serbia has ratified and which it has not but to what extent the authorities in Serbia (executive and legislative) truly accept those documents and their recommendations and to what extent they do it due to specific political pressure of the international community. It seems that not many deputies were interested in the contents of the documents they ratified. It was yet another vote according to the proposal of the executive authorities; the deputies from the parties that support the Government voted "in favor", while the deputies from the opposition parties voted "against", neither of them getting into the details of what they voted about.

ANTI-CORRUPTION COUNCIL AND ITS RESULTS

A Short Historical Background of the Council

The establishment of the Anti-corruption Council of the Government of the Republic of Serbia is linked to the initial days of the first democratic Government of Serbia formed in January 2001. Two men played the key role in the establishment of the Council and definition of its role: Prime Minister Zoran Đinđić and Finance Minister Božidar Đelić. More specifically, it can be easily assumed that the inspirer of the establishment of this body was Božidar Đelić. What were his motives for this action? Mr. Đelić came to Serbia in late 2000, from the "big wide" world and was very well informed about the topics that arouse the keenest interest – he astutely noticed a kind of global "fashion" to tackle the phenomenon of corruption, that is, the fight against it. By grabbing this topic, too, for his portfolio, Mr. Đelić secured a kind of recognition for himself in international circles, i.e., created an image of a politician who fits into the internationally recognized value system. Moreover, Mr. Đelić's policy was to maximize the competences of his Ministry and he did that, within the boundaries of the law, by assigning topics and/or issues to the Ministry of Finance, which he simply declared to be in his own portfolio. Thus, for instance, the Ministry of Finance worked on the Draft Law on Denationalization, which, unfortunately, never saw the light of day. Relatively scarce resources of the Ministry, i.e., its rather limited administrative capacities, in relation to a huge burden of obligations that Mr. Đelić voluntarily took upon himself, simply resulted in the non-fulfillment of some of these obligations and/or their inadequate fulfillment. Under such conditions, it seems that dealing with corruption had great importance primarily in the domain of public relations (in the broadest sense of the word), and that Minister Đelić was in fact more interested in the topics such as reform of the taxation system, building of the tax administration and consolidation of the budget, and rightfully so, since that is the core of the activity of the Ministry of Finance. Still, the fight against corruption paid part of the price for this kind of prioritization.

The assumption that the inspirer of the establishment of the Council was Mr. Đelić brings us to the question of Zoran Đinđić's motivation in accepting this initiative and backing it completely. There are some indications that Mr. Đinđić was not satisfied with the image of him that prevailed in the public, according to which he was seen as an efficient and pragmatic politician who did not care much about ethical norms. A strong contribution to such an image was made by Đinđić himself, through his political activity, that is, his conduct during the 1990s. It can be illustrated by his statement: "Those who care about morality should go to church", or by his fickleness in the course of the 1996/97 protests. The establishment of an anti-corruption body of the Serbian Government was supposed to bring an improvement in the

Prime Minister's image among the broadest political public. Indirectly, it could be concluded that Zoran Đinđić's commitment to the idea of setting up a government body to deal with corruption was based primarily on the value of such a body from the standpoint of public relations. It is beyond doubt that the pragmatic Mr. Đinđić was oriented toward the future and that his interest was in finding the way for Serbia to change as quickly as possible and become part of prosperous Europe as soon as possible, and he did not want anything to distract him from that goal. He left the lead political role in the pursuance of anti-corruption activities to his Finance Minister. Consequently, Božidar Đelić was the "guardian" of the Council, in the political sense, at the beginning of its work.

In such conditions, in which the basic political motives are not in the domain of contents, but rather in the domain of public relations, the fundamental issue of the term of office, that is, of the task of the body which has been established, remains open. Namely, irrespective of a formal founding decision, which has defined the term of office of this body, the lack of a clear and firm political will to fight corruption, i.e., of a desire for effective work of the Council, has led to the problems in defining its mandate, the activities that this body should actually pursue, as well as in the selection of Council members and its internal organization.

In one of the first meetings that Zoran Đinđić had with the members of the Council (before the official establishment of the Council as such), when asked by one of the (prospective) members of the Council about what exactly they were supposed to do to, Mr. Đinđić laconically replied "Well, do whatever you like!". All follow-up questions were met with the following answer: "Boža (Đelić) will be in charge of that". It was evident that the Prime Minister had no clear concept for the work of the Council and that he was not very keenly interested in it. The Anti-corruption Council, that is, the fight against corruption in Serbia as such was not his political priority. Such an attitude was a consequence of the pragmatism of the late Prime Minister, as well as of his attitude toward the Council, which he perceived as a mechanism for building good public relations, not as a body which can make a contribution in the field of governance methods in the country. In addition, on several occasions Zoran Đinđić spoke about the Council as the conscience of those in power, i.e., the conscience of the people in the Government. The conveyance of such signals was obviously not beneficial from the standpoint of defining the mandate of the Council, so the huge energy of the Council members was absolutely expectedly spent on a debate about it.

The second problem, which was a consequence of the mentioned political concept, was the selection of the cadre for the Council. In the second half of 2001, an informal public competition for the members of the Council was announced, with Mr. Đelić, as the mastermind behind it, being the most active person in bringing people together. The basic,

and almost only criterion, for the selection into the Council was the social standing, that is, "morality" of candidates. In other words, it was not important how competent Council members were, that is, whether they knew something about corruption and its mechanisms or not, to which extent they were willing to learn something from that field, how much talent and will for teamwork they had – the only important thing was that they were reputable, i.e., moral. This is how a group was formed of very reputable and indubitably moral members, very differently qualified for the execution of the Council's mandate, who were supposed to work as a team – a recipe for disaster. And all the more so bearing in mind that reputable people in Serbia are very often quite self-important.

The beginning of the work of the Council was marked by an internal debate about the mandate and several scandals. A huge amount of energy was spent on finding an answer to the question of what the Council should do, though without any success. As for the scandals, the most significant one was a public exchange of accusations between Council member Čedomir Čupić and owner of TV Pink Željko Mitrović. An attack by Mr. Čupić (of whom it was not clear whether he acted in his own name or as a Council member) provoked a counterattack by Mr. Mitrović and accusations by the latter against the former, and everything was concluded by Prime Minister Đinđić's statement that "he had no desire to get involved in a fight of sparrows in the dust." Insulted by such an attitude of the Prime Minister, Mr. Čupić resigned from the Council in early 2003. That was preceded by several other resignations, only to culminate with the resignation of the Council Chairperson, Slobodan Beljanski (in July 2002), on account of "personal disagreement with the manner in which the Government treats the Council".

The departure of a number of the members, both due to resignations and to the assumption of new offices that would create a conflict of interest (Predrag Jovanović took the post of the Director of the Public Procurement Directorate), brought about a reduction in the number of the Council members, the selection of new members in mid-2003, as well as the election of a new Chairperson of the Council – Verica Barać. A change which was very quickly noted was the intensity of public appearances of the Council's leading figure – Ms. Barać has had a high frequency of appearances in the media from the very beginning. In time, the Chairperson of the Council has become, as it seems, a synonym for the Council, at least regarding public appearances.

The problems associated with defining the mandate and activities of the Council led to the need for new talks with the Prime Minister. Moreover, a meeting of the Council with the Prime Minister was scheduled for 12 March 2003 at 13:00 on the premises of the Government. Zoran Đinđić was assassinated when he was arriving for that meeting.

His successor Zoran Živković applied his aggressive style of communication with people who thought differently (and whose number was steadily growing in the course of his term in office) not only to political

opponents, but also to the Chairpersons of the Council, which is, at least formally, the Council of the Serbian Government. The other side, however, never failed to answer back. As a result, the general public bore witness to rather intensive verbal clashes between the leading figures of the Council, predominantly its Chairperson, and the Prime Minister.

The arrival of a new Serbian Government in March 2004 and a new Prime Minister, Vojislav Koštunica, has changed the relationship between the Government and the Council. Namely, the Prime Minister was not particularly agitated by the reports, memorandums and public appearances of the Chairperson and Council members, all the more so because the majority of accusations was directed toward the cabinet members from G17 Plus (Miroljub Labus and Mlađan Dinkić), as well as toward the process of privatization which had been carried out during Zoran Đinđić's, i.e., Zoran Živković's governments. Naturally, being a political pragmatist, Vojislav Koštunica did not see anything wrong in the deterioration of the credibility, i.e., political positions of his current or potential rivals and/or coalition partners. Therefore, increasingly heated public appearances of the Chairperson and individual Council members were not met with any reaction on the part of the Prime Minister, or other people from his party, but they provoked some fervent reactions by Mlađan Dinkić. One of the TV duels between Verica Barać and Mlađan Dinkić certainly belongs to the highest achievements of the Serbian political kitsch in terms of communication style and soundness of accusations. The said TV duel, together with the matching campaign waged by Verica Barać, constitutes the greatest contribution to the deprivation of sense of the public debate about corruption in Serbia – in exactly the same manner in which parliamentary debates in Serbia have long been rendered senseless by radical-like rhetoric of Vojislav Šešelj and his followers.

During the term of Prime Minister Vojislav Koštunica's cabinet of March 2004, a new National Anti-corruption Strategy was adopted, which provides for the establishment of an Anti-corruption Agency. After the setting up of that Agency, the Council will cease to exist. Since the Law on the strength of which the said Agency is to be established has not yet (June 2007) been passed, the Council is still existent and active.

The forming of the Government in May 2007 was accompanied by Verica Barać's fierce attacks on new Finance Minister Mirko Cvetković. Bearing in mind the controversy that surrounded the selection of candidates for the Finance Minister (there were several candidates for that office), and obvious dissatisfaction at that choice on the part of certain circles in the political party to which the finance ministry was allocated, it is difficult to get rid of the impression that through the attack on Mirko Cvetković, related to his alleged actions as Privatization Agency Director, the Anti-corruption Council was used in clashes at the level of everyday politics, even the intra-party level. It is not very likely that an institution which was abused in such a manner can have any kind of

credibility. From its beginning, associated with the internal clashes in the Council over its mandate, to the (near) end, which is associated with its complete instrumentalization, the work of the Council was surrounded with a lot of controversy, and all that has affected its achievements in the field of combating corruption in Serbia.

Term of Office of the Council and its Organization

The Council was established on 2 October 2001 by virtue of a Decision of the Government of the Republic of Serbia (RS Official Gazette 59/01). It was established as "an expert and advisory body of the Government of the Republic of Serbia".

Under the Decision, that is, the founding document, the mandate, i.e., task of the Council is undisputed. "The task of the Council shall be to review anti-corruption activities, propose measures to the Government of the Republic of Serbia, which should be undertaken with a view to efficiently combating corruption, and monitor their implementation, as well as to put forward initiatives for adoption of regulations, programs and other enactments and measures in this field."

If one translates this sentence from the language of administrative law into the everyday language, several things clearly arise from it. First, the Council has no mandate to deal with specific corruption cases in Serbia; instead, it deals with "measures", "regulations" and "enactments", which constitute the matter that can give rise to corruption. Second, the Council has no investigative, but solely advisory role. Third, the Council is supposed to give advice to that effect to the Government of the Republic of Serbia. All in all, at the normative level, the issues associated with the Council's mandate are very clear, hence the question is raised of how and why the obvious confusion over the tasks and/or business of the Council was created.

The confusion over the Council's mandate, on whose resolution a tremendous amount of energy was wasted at the first stage of its work, was probably a consequence of the already mentioned problems with the choice of Council members. Had, for example, the Council comprised civil servants, they would have read the very unambiguously worded text of the Decision and proceeded to implement it, that is, they would have dealt with the things they are authorized for. The issue of their results, that is, of the effectiveness of those civil servants in combating corruption, is a different matter, but at least there would have been no dispute over the Council's mandate. In addition, the already mentioned (political) message "Well, do whatever you like!" has sent at least two signals to the Council members. The fist one is that the provisions of the Decision, that is, the official founding document, are not relevant, since the above Prime Minister's sentence called on the violation of the said Decision. The second signal is, in all likelihood and despite the fact that the mentioned statement could be interpreted as

giving the Council a free rein to work on combating corruption, a signal that the mentioned statement can be interpreted as a message that the executive is not keenly interested in the work of the Council, i.e., that the Government has some other priorities.

The selection as Council members of reputable and moral people, independent individuals, who do not possess the discipline of civil servants and little propensity to teamwork, who have a strong inbuilt sense of justice (irrespective of whether they agree on what justice is or not), and among whom some were not quite familiar with the problem of corruption, coupled with the mentioned signals sent out by the Prime Minister, inevitably resulted in a long and broad-based debate about the mandate and/or tasks of the Council. That debate failed to yield a positive result, so no consensus was reached on the role of the Council, and that issue kept running through numerous meetings with Government representatives.

Many Council members were inclined toward investigations into specific cases of corruption, but there was no consensus even among themselves on the issue of the time horizon for such actions. For instance, will investigations include corruption cases before October 2000 or only after that date or, alternatively, no cut-off dates of any kind will exist? Furthermore, the fight against corruption was linked to the then policy of collecting the so-called extra profit tax, that is, to the consistency in the pursuance of that policy, and it resulted in dissensions in that respect among the Council members. The propensity to investigations into individual cases actually ignited the first scandal associated with the work of the Council, namely the already described conflict between Čedomir Čupić and Željko Mitrović, which was related to the payment of the extra profit tax by the owner of TV Pink, i.e., to the issue of a zoning permit for a new facility of that TV station.

No one ever called into question the need for the Council to implement its mandate under the Decision ("measures, regulations and enactments"), but many Council members were of the opinion that this job was of second-rate importance, and there was no agreement either about the method to be used in the analysis of "measures, regulations and enactments". While some thought that a public hearing should be organized in the process of adopting new laws, in which the competent minister, that is, the proposer of a bill, would be "heard", others were of the opinion that it would suffice if the Council members made an analysis of the proposed law.

There was disagreement over the definition of corruption as such, i.e., regarding the answer to the question of whether any violation of a law and/or any abuse of office constituted corruption. While some Council members advocated the idea of not limiting the work of the Council only to corruption in the narrow sense, but of including in its scope of work any abuse and any law violation which brings some material benefit, others advocated a bit more conservative approach according to which the Council would focus on corruption in the narrow

sense, namely the type of corruption assessed as the most dangerous one.

In addition to the dissensions regarding the mandate and work method, dissensions also emerged with respect to the organization of the work of the Council. One of the key issues over which no agreement was reached at the very beginning of the Council's work was whether the Council members should receive remuneration or rather discharge their duties on a completely voluntary basis. An opinion gradually prevailed that they should be remunerated for the work in the Council, and that is how the Council members started to receive remuneration for their engagement in this body as of 2003.

It remains unclear, however, what the internal organization of the Council is, how decisions are taken within the Council, whether there is division of labor in the Council, etc. It is not known whether it has the Statute or Rules of Procedure, since none of these documents can be found on the Council's website (www.antikorupcija-savet.sr.gov.yu). Likewise, it is not completely clear to whom the Council reports and in which manner. Since the Council is a body of the Serbian Government which, pursuant to Article 33 of the Law on the Government, has the status of a "provisional working body",[3] the reporting obligations defined by the 2004 Rules of Procedure of the Government (Article 22) are applicable to it, which means that the "provisional working body shall be under an obligation to submit to the competent committee a report on its work at least once in 60 days, and to the Government at least once in 90 days". Contrary to the mentioned obligations, the Council draws up a report on its work once a year, and on the website of the Council annual reports for 2004, 2005 and 2006 can be found. All available annual reports, succinctly written, have between seven and 11 pages, and present pure facts about the activities of the Council, that is, of its members. The financing of the Council was mentioned only in the report for 2005, in order to highlight the problem of underspending, namely that a mere 11.3 million dinars was spent out of the 12.46 million dinars worth budget appropriation. All available reports are signed by Council Chairperson Verica Barać.

By reviewing the available reports it is possible to conclude several things. First, the Council is not of the opinion that it should abide by the obligation stipulated in the Rules of Procedure of the Government. Second, the Council believes that it should very tersely inform the Government and/or the general public about its activities – and for the most part activities – while there is much less about its results. Third, the Council believes that the amount of received and spent budget resources

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[3] The status of the Council as a "provisional working body" is derived from paragraph 3, Article 33, of the Law on the Government, which sets out that provisional working bodies are to be set up by a decision defining their task and composition, while standing working bodies are to be set up by virtue of the Rules of Procedure of the Government. The Council was established pursuant to a relevant decision (RS Official Gazette, 59/01).

should not be published in annual reports. That is to say, the total amount of resources spent by the Council is mentioned only in the case where, in the Council's opinion, problems arose with its financing.

Furthermore, on the Council's website, it is not possible to find its annual financial statements, which would provide the information to the public on how much of (taxpayers') money the Council received in the course of a year and how that money was spent and on what. It is clear that there is no statutory obligation of the Council to present the said information in this manner, but such a move could be expected from an entity which keeps insisting on transparency and on the need to oversee the spending of the budget monies, i.e., from an entity which has accused many, with or without arguments, of the lack of transparency. It is interesting that, as yet (June 2007) no one has publicly raised the question of the availability of data on the salaries of the members of the Council, as a budget beneficiary, although that question was raised in the case of certain faculties of Belgrade University.

Incidentally, it is possible to learn from the report of the Council that the OSCE Mission to Serbia and Montenegro is an affiliated member of the Council, and that on behalf of the Mission the meetings of the Council are attended by Svetlana Zorbić. It remains unclear how, that is, pursuant to which decision, the OSCE Mission, as an international organization, has become an affiliated member of the Council, since it is the Council of the Serbian Government. Moreover, it is not clear what the function of the OSCE Mission as an affiliated member of Council is. It is all the more so because the Decision on the Establishment of the Anti-corruption Council stipulates that "professional and administrative-technical tasks for the needs of the Council shall be performed by the Ministry of Finance and Economy of the Republic of Serbia", with these tasks being later on reassigned to the General Secretariat of the Government.[4]

The Work of the Council and Cases Considered

The work of the Council has so far been completely oriented toward political corruption, while administrative corruption, i.e., corruption of civil servants, such as corruption in the health sector, judiciary, tax administration or customs agency, has been completely neglected. As if these rather prevalent kinds of corruption had not been interesting to the Council at all. All the cases covered by its reports boil down to political corruption, which inevitable gave rise to a direct conflict with the Serbian Government, that is, its officials. At the beginning of a report on the bankruptcy of "Sartid" the Council states that it is "resolved to

[4] It is evident that for a long time the members of the Council were not satisfied with the professional and administrative-technical support provided to them by the Government, from the premises allocated to the Council for its work, to all other elements of that support, so the question is raised of whether the co-opting of the OSCE Mission to Serbia was a way to overcome that problem.

analyze the highest-profile grand corruption cases in our country.". Instead of systematic research into the phenomenon of corruption in Serbia, an analysis of its causes and identification of possible policies to curb corruption, the Council has focused on the investigation into the most "attractive" cases of political corruption – cynics would say those cases which infallibly bring Council members to the cover pages of high-circulation newspapers.

By way of example, customs corruption, as typical administrative corruption, was not the subject on which the Council worked, in any way whatsoever. The Council did not make an effort to carry out research into the causes of this kind of corruption, nor did it analyze laws which define public policies conducted by the customs agency, nor did it voice its opinion when officials of the Serbian Chamber of Commerce insisted on introducing non-tariff barriers to imports, which constitute a great danger from the standpoint of corruption; moreover, even the favorite target of the Council's attacks, Mlađan Dinkić, was spared from any comments when he advocated protectionist public policies of that kind, and the Council never paid any attention to the internal organization of the customs agency and wage policy for customs officers. Simply, all these questions were not interesting for the Council.

The attitude of the Council toward customs corruption has changed when in late November 2006 a large group of corrupt customs officers was identified and arrested. The Chairperson of the Council, Verica Barać, then made a statement in which it accused the Government by saying: "…had there been true will to eradicate customs corruption, that would have been done a long, long time ago and the Government would not have waited to carry out that action just before the election"[5], and added that the top management of the customs agency had not been replaced ever since the days when it had been run by high-ranking official of Milošević's regime Mihalj Kertes. "In Kertes's days, that was a machinery that financed the regime through criminal actions in the customs agency, but its key figures have not been brought to justice. The only certain thing is that, essentially, the top echelon involved in the smuggling ring has not so far been identified, let alone punished". On the following day, the Chairperson of the Council claimed that the action resembled an election campaign because six years had elapsed in which some very important things for fighting customs corruption had not been done. "If no way has been found to really bring people like Mihalj Kertes and all the people around him to account and, more importantly, to return the money which they took from public revenue to the state, then I really do not believe that these are some serious actions aimed at fighting customs corruption. These are mostly various

5 Cited according to the news published on the B92 website, on 28 and 29 November 2006.

moves which should embellish the reality, but the reality behind the make-up is much worse than one would allow to be seen."

Although before the said arrest the Council had never dealt with customs corruption, as mentioned above, the first action made in that direction was used for harsh attacks on the Government. More specifically, for the Council, the fight against corruption is reduced to arrests, recovery of monies and to the all-mighty human resources policy, so dear to communists – one only needs to dismiss the top people in the customs administration and everything will fall into place after that: that is meant by "serous actions".[6] No prevention, no reform of public policies, no foreign trade liberalization, no elimination of quantitative restrictions and hidden non-tariff barriers, no tariff rate cuts, i.e., harmonization of excise policy with the neighboring countries, only arrests, seizures and good human resources policy. So much like some ancient times!

If there was a dilemma at the beginning of the work of the Council regarding its mandate, that dilemma has been resolved in time, through the engagement of the Council itself, namely the Council effectively changed its mandate in relation to the one given to it under the Founding Decision by the Serbian Government – its founder. The Council turned completely to the investigations into alleged specific cases of corruption. It can be best seen by the structure of the reports and communications of the Council, at least those available to the public on the Council's website.[7] Out of 24 reports and initiatives posted on the Council's website, three documents (12.5%) are annual reports of the Council, one document (4.2%) is a report from an event and its conclusions, five documents (20.8%) constitute analyses of laws and policies, while as many as 15 documents (62.5%), an overwhelming majority, deal with investigations into individual corruption cases, i.e., into something which the Council considers to be specific corruption cases.

Irrespective of the fact that the Council has thus already deviated from the mandate given to it under the Founding Decision, an additional problem is also posed by another kind of deviation from the mandate. Namely, the problem is in the fact that the analyses of specific cases, regardless of the extent to which reports of the Council are based on facts, show that the Council dealt with alleged law violations as such, that is, with different criminal offenses, starting from thefts, to frauds

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6 The replacement of all the top people in the Bulgarian customs agency in the early 1990s, without any change in public policies, caused the level of corruption at the customs to even rise within several months, relative to the one prevailing at the time when the previous management was dismissed and arrested.

7 By comparing statements in the annual reports with communications and reports of the Council publicly available on the website of the Council, it is obvious that the Council assessed that some of its communications should not be posted on the website. For instance, the 2005 annual report states that a letter was sent to the Government, that is, the Prime Minister, containing recommendations related to the alleged corruption of Deputy Prime Minister Miroljub Labus, but that letter is not on the Council's website.

and the like, to law violations related to the non-compliance with contractual obligations, and not corruption which constitutes a separate criminal offense.

Moreover, when the Council, for a change, dealt with certain public policies, that is, "measures, regulations and enactments," that analysis not only was not limited to the analysis of corruption, but it was also expanded to include an analysis of their validity from the standpoint of the public interest. By doing so, the Council overstepped its mandate completely, not to mention that in this case, too, no compelling arguments were offered to show that certain public policies are not in the public interest. All the above can be best seen from the activities of the Council associated with the privatization process, the most favorite topic of the Council since its establishment.

A very large portion of the activities of the Council was oriented toward the analysis of the privatization of the real sector in Serbia, namely the privatization that was launched in 2001, since the Council gave an assessment that "…at this point in time, the privatization process is the most serious candidate for a disgraceful role of the leader in corruption" (the Report on the Bankruptcy of "Sartid"). Such an assessment, however, was not corroborated by relevant arguments.

Two reports of the Council are devoted to the issue of privatization as such. At first glance, these are the kind of reports which the Council was mandated to prepare – analyses of public policies and regulations from the standpoint of the fight against corruption. The first Report was on the privatization policy and process dated 15 March 2004. This report, in addition to the analysis of legal arrangements, looks at a large number of privatization cases, predominantly on the basis of complaints by employees and trade unions (it is stated that complaints were lodged from 88 companies), in order to draw conclusions on these grounds concerning the privatization policy and process. Unfortunately, in that respect, even this report, for the most part, constitutes an investigation into specific cases of alleged corruption, this time in privatization, with slight, very often impermissible generalization, since the conclusions that have been drawn do not follow from the facts presented in the analysis of specific cases, irrespective of whether these findings are congruent with the facts or not. The Council was again engaged in investigations into specific corruption cases.

The evaluation of legal arrangements related to the privatization initiated in 2001 has practically nothing to do with corruption; instead, value judgments are made regarding privatization as such, i.e., regarding the privatization model defined by the Law. It is stated, for instance, that the Privatization Law contravenes Article 56 of the then Constitution, which "recognized different forms of ownership: social, state, private and cooperative", despite the fact that the said Article of the Constitution is essentially just a guarantee for the equal legal protection of all ownership types, and no guarantee whatsoever for the existence of all ownership types, since Article 59 of the then applicable

Constitution clearly states that the conditions for the transformation of socially and state owned property into other ownership forms are to be regulated by the law. Regardless of the incorrectness of the assertion by the Council that the Law contravenes the Constitution, the question of what it has to do with corruption remains open. Furthermore, the report claims that the Law "stipulates that natural resources and goods of the public interest may not be subject to privatization,…while in practice even such goods as the baking industry and the dairy industry are included in the privatization procedure…". Such allegations show elemental incompetence (milk as a natural resource or the baking industry as a good of the public interest), without offering an answer to the already posed question: what does it have to do with corruption?

Also interesting is the obsession with the phenomenon of the estimated value of a company (firm) undergoing privatization. It is the reason for the following statement: "Although Article 22 of the Law lists all the pieces of data on a firm in the privatization procedure, which have to be presented, a sizeable amount of assets is often excluded, in order to reduce the estimated value of the firm, which is then sold at a low price". Moreover, it is asserted that "consultants are making evaluations of firms and they can fix the time when the evaluation is to be made (e.g. to postpone it in order to make debts in the meantime, which reduce the value of the firm's equity)".

The mentioned views reveal several things. First, the Law stipulates that companies, i.e., their equity, are sold by using methods which create competition on the demand side (auctions and tenders), so the selling price of a company is the highest price which someone is willing to pay for that company,[8] and the estimated value of the company's equity is simply not relevant. It has a solely technical value, serving to fix the opening price before the bidding, which will in fact set the actual value of a particular company, that is, its equity. Second, assets of a company are confused with its equity. A buyer of a company in the privatization process does not buy the assets of that company, but its equity – assets reduced by total liabilities. No proof was offered to corroborate the allegation that "a sizeable amount of a firm's assets is often excluded". A future owner can very well evaluate on his own the assets whose owner he is to become (indirectly), and on that basis, after including the information on liabilities, he decides by himself about how much he is willing to pay for them.

After a mere two pages of general analysis in this report, the Council switched to the analysis of specific corruption cases, so dear to its heart,

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8 Competition on the demand side creates incentives to all interested parties to truthfully state the price they are willing to pay for the offered company. Strictly speaking, the selling price in a tender is the highest selling price which any of the participants is willing to pay. In the case of auctions, the obtained, i.e., the winning price is the price of which it is possible to say with certainty that it is higher than the highest price which the second highest bidder was willing to pay, but that it does not constitute the highest price which the highest bidder is willing to pay.

in order to reach the following conclusion, based on them: "From the mentioned analysis it is possible to establish that there are many outstanding issues in the privatization policy and procedure, which can be the cause of abuse and offenses: …Privatization proceeds are not used sufficiently to boost economic development, because they were invested mainly in the restructuring of big conglomerates and replenishment of the budget." In other words, the assessment of the Council "that privatization proceeds are not used sufficiently to boost economic development" (irrespective of whether that is true, i.e., of whether that is the cause for concern, or not), is offered as proof that abuse and offenses can occur. The problem is in the fact that the entire report of the Council is in essence a critique of the privatization model applied in Serbia since 2001, even a criticism of privatization as such, rather than an analysis that would be compatible with the Council's mandate. This is the only way to explain the position that "privatization proceeds are not used sufficiently to boost economic development", which has absolutely nothing to do with corruption, but with certain public policies formulated and implemented by the legitimately elected government.[9]

The next report of the Council entitled "Shortcomings of Proposed Amendments to the Privatization Legislation" of 3 February 2005 constitutes an exception in the work of the Council, since it really deals with the matters supposed to be the Council's mandate, namely the analysis of regulations. However, one can very quickly see how far away that analysis is from the task of the Council to deal with corruption, since it constitutes a general analysis of new regulations, even regulations in force since 2001 in large part. For example, the subject of the criticism is an amendment to the Law, which introduces the institution of debt forgiveness, and this criticism is supported by the argument that such an arrangement contravenes the Bankruptcy Law. Of course it contravenes that Law, that was precisely the basic intention, in order to make possible, in the special case of companies undergoing restructuring, their privatization through debt forgiveness. And the principles lex posteriori derogat legi priori (each new law is to supplant the already passed law) and lex specialis derogat legi generali (each new law defining some specific arrangements derogates that same general law applied to all the cases) are well-known. Furthermore, some of the views presented in that report are simply not based on facts ("Absence of criteria for deciding on the method to be used for the sale of a company").

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9 It is interesting that this report of the Council was signed by Zagorka Golubović as a Council member, not by Verica Barać as its Chairperson. Furthermore, although the report was publicly released in 2003 for the first time, its version posted on the website is dated 15 March 2004, one day after the formation of a new government, and the report was sent to Prime Minister Vojislav Koštunica and the then Minister of Economy Dragan Maršićanin, who had made numerous accusations in the election campaign against the privatization process during Đinđić's and/or Živković's Governments, as well as to the newly appointed Privatization Agency Director, Branko Pavlović. What an interesting coincidence!

Finally, certain findings are so terse that they are unclear ("Non-transparency of decisions.").

In addition, although this report of the Council, in line with its mandate, does not deal with investigations into specific cases, it dramatically oversteps the task of the Council to deal with corruption. It can be best seen from the recommendations of this report not to adopt the proposed amendments to the privatization legislation, inter alia because they "do not touch upon certain problems", such as: "Privatization of natural monopolies, which was reduced in practice to a situation where a privatized company used a natural resource or its monopolistic position, without paying any fees." or "Privatization of socially owned capital in cooperatives and privatization of urban buildable land." Not to mention the grotesque logic that something should not be adopted because "they do not touch upon certain problems" – the problems cited as reasons not to adopt the proposed amendments have nothing in common with corruption and the fight against it.

Although the "Sartid Bankruptcy Report" of 10 May 2004 is a report on a bankruptcy, as clearly stated in its title, its introduction discusses the relationship between the principal and the agent, which enables corruption in the sale of companies. This is a report on a concrete case of alleged corruption, hence it is certainly outside the Council's mandate, but it is interesting, since it accuses "top-ranking representatives of the executive" of corruption, only to point out the following in the next moment "Whether government officials have received material benefits for abusing their office or not is of lesser importance in this whole matter. According to the contemporary understanding of corruption, the benefit does not have to be material in all the cases, because abuse of office is also committed for the purpose of gaining political advantage (Article 18 of the UN Convention against Corruption speaks about trade in influences)." First, modern understandings of corruption differ among themselves and the concept of "trade in influences" is quite controversial, and the mentioned Article of the Convention is rather unclear and difficult for implementation. Second, even if there existed none of the mentioned conceptual problems, an open question of what is demonstrated in this report on the specific corruption case would still remain. If the report claims that corruption occurred, be it in the form of "gaining political advantage", it is not clear who gained political advantage and in which manner. The report does not provide an answer to that question. Furthermore, if it is "trade in influences", the indisputable fact is that it is an exchange (someone is selling, and someone is buying influence), but nothing can be found in the report which would indicate who the seller of the influence was (US Steel, the executive of the domicile country of that company or some third party), who the buyer was, and what the subject of trade (exchange) was. All that is missing from the report which deals with one specific case. The presented accusation of corruption ("In all likelihood, grand corruption occurred, in which top-ranking representatives of the state were

involved, who made it possible for a foreign company, with ample support from courts, to make high illegal gains.") is not corroborated by facts, let alone evidence. The view that "The selling price of 21.3 million dollars seemed to be on the low side to many." is presented as crown proof. It is a perfectly expected consequence of the fact that the Council dealt with specific cases of corruption, without being mandated or equipped for such investigative activities.

The Council has so far dealt with various specific cases of real sector privatization and analysis of legislation, i.e., of the regulations governing the privatization process and it has reached the conclusion that certain elements in those regulations can make room for corruption, which is, unfortunately, taken as evidence that corruption has occurred in privatization. More specifically, there is no analysis of whether some other models, i.e., methods of privatization would create more or less room for corruption, and there is even less analysis of whether the survival of socially/state owned property, instead of privatization, would bring more or less opportunities for corruption. In other words, privatization process is not analyzed within the available possibilities, i.e., in the categories of opportunity costs of opting for one of the available options.

From the standpoint of investigations into specific cases of alleged corruption, irrespective of whether the statements presented in the reports correspond to the facts, many behaviors which were described constitute only violations of laws, some other regulations or some other kind of illegal conduct, and as such they do not constitute corruption. Thefts, forgeries, non-performance of contractual obligations and the like do not constitute corruption, and thus definitely do not fall in the competence of the Council. Irrespective of that, the reports on specific cases of alleged corruption did not offer enough evidence to conclude whether corruption actually occurred.

Moreover, it seems that, in its analysis of the privatisation process, the Council completely focussed on the selling price issue, i.e. on the privatisation proceeds, so that the working hypothesis was that corruption leads to the reduction of privatisation proceeds. Accordingly, the Council absolutely fails to address other issues pertaining to privatisation and corruption, such as how corruption, if any, leads to disruption in the process of selecting the best owner in terms of upgrading the company that was privatised, to the appropriate ownership structure which creates the incentives to the owner to restructure the company, the incentives to the new owner to invest, etc. Implicitly, the Council has decided to equate the public interest in the privatisation with the selling price, i.e. the privatisation proceeds. That is why the Council now fears that, because of corruption, our companies will all go for a song. In addition, often completely disregarded are the liabilities (debt) of the company that is being purchased and that the new owner assumes.

It is interesting that the Council was exclusively interested in the privatisation through sales, which started in 2001. Formerly completed privatisations were not of interest to the Council, regardless of the fact

that it was these privatisations that led to the dispersed ownership structure which, inter alia, triggered the problems and irregularities that arose when the companies privatised at that time were taken over. Namely, the irregularities with the suspected corruption, as it was demonstrated in the previous section, were much greater in the process of taking over the companies privatised before 2001 (and not solely when the shares owned by the Share Fund were sold), than in the privatisation initiated in 2001.

During 2006, the Council prepared three reports which constitute its output and completely fall within the boundaries of its mandate. These reports presented the remarks on three draft laws in terms of the possible impact that the proposed legal solutions could have on the level of corruption (Law on Prevention of Money Laundering, Law on the State Audit Institution, and the Anti-Corruption Law). Unfortunately, these reports are sparse (maximum two pages), their findings are mostly trivial, and such are the recommendations for their improvement.

In the last three years, the Council has been very active in its communication with the general public, where the greatest portion of that communication fell on the shoulders of the Council's chair, Ms. Verica Barać. It looks as though she did not find this a burdensome task. The Council apparently attaches a high value to her media appearances which can all be seen at the Council's official website. The media appearances of the Council were mainly connected with different scandals, with regard to privatisation, or in respect to the activities of the Council's favourite target – Mlađan Dinkić.

For instance, in its press release of 18 January 2007, under the title "Response of the Anti-Corruption Council to Mlađan Dinkić's untruthful allegations about the fight against corruption" we have learnt that "Dinkić continuously disseminates untruths about the activities of the Anti-Corruption Council". However, we could not find out what these untruths were, namely, what is it that Dinkić said – we were only informed that he did this "in the attempt to conceal his role in the following illegal activities". This was followed by a list of eleven illegal activities. For example "Making false statements that 95% of the 'frozen' foreign currency savings were paid out without mentioning whether he was thinking of the number of accounts or the amount of debt."; or "Negotiations regarding the sales of Mobtel, which should be subject to serious investigation". Hence, the examples of the violation of law include making statements, or the negotiations on the sale which, it is true, was not yet investigated, but unbiased investigation would surely expose some criminal offence! This lack of seriousness discredits the anti-corruption efforts in Serbia.

Moreover, its statements lack consistency. According to the Council's release of 16 May 2007, the Council's chairperson maintained that "between 2003 and 2004, (Mirko) Cvetković, as the top manager of the Privatisation Agency, was involved in at least 88 shady privatisations". What were these privatisations and why were they shady remained a

secret but it was obvious that the Council's Chairperson had doubts about Mirko Cvetković. Somewhat later (04 June 2007) as a guest in the "Poligraf" TV program, when asked why "did she so fiercely criticise the new minister, you had also criticised his work when he was the director of the Privatisation Agency", Ms. Barać said: "We did not criticise anything, the journalists asked us about the facts from the time when he was the director of the Privatisation Agency, and we repeated them because there is clear evidence of it. That is to say, he was at the same time the director of the Privatisation Agency and the executive director of "Ces Mekon", that is how he was entered in the court register, we criticised nothing, we just presented the facts as they are". Only, it still remains unclear what has happened with those "at least 88 shady privatisations!"[10]

Speaking about the Council's activities in the above TV program, Ms. Barać said: "Therefore, we **do not deal with** the criminal-law issues, whether the corruption was present or not." That was what the Council's chairperson said, the Council having devoted most of its activities to investigating specific cases of corruption (see the list of the corruption cases: Sartid, Mobtel, Nacionalna štedionica, sugar exports, Keramika, Jugoremedija, Poslovni prostor, Olympic games, building extensions in Konjarnik, Veterinarski zavod…) and it was Ms. Barać that signed, for instance, the Report on the Bankruptcy Proceedings over Sartid, in which the following was said "Everything suggests that this was a case of grand corruption in which the highest government officials were involved". An unbiased and benevolent observer, not familiar with everyday life in Serbia, would think that it has at least two councils.

Valuation of the effects of the Council's activities

The sailors still believe that it is a very bad omen if the champagne bottle does not break when the ship is first launched into the sea. Such a ship is deemed to be cursed – it takes people, it is prone to damage, it soon sinks. Of course, later, it turns out that it the champagne bottle was not to blame, but rather the inappropriate basic design, bad structure, inappropriate materials, shoddy workmanship, and the lack of discipline during construction.

The fate of the Anti-corruption Council resembles that of the cursed ship. Although there was no champagne when the Council was launched, all the above (ship related) faults were soon to come to light. Inappropriate basic design was a consequence of the fact that it was not clear what was wanted, except to improve the Government's relations

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10 By the way, the resounding number of 88 privatisations equals the number of complaints that reached the Anti-corruption Council and that are mentioned in the first report on the privatisation policy and process which was published shortly after Mirko Cvetković was appointed to the position of the Agency's director. It may be a coincidence but, considering the above description of the Council' activities, anything is possible.

with the public, in the broadest sense of the word. Even though the decision on setting up the Council was clear in respect of its mandate, the absence of firm political will and sending of mixed signals caused the confusion about its mandate. Numerous conceptual disagreements, along with the limited capability for teamwork, almost blocked the activities of the Council in its early days.

The Council resumed activities after major changes in the composition and reduction of the number of its members, but, unfortunately, there was no improvement. Instead of doing its job, the Council focused on some specific cases of corruption, attempting to find proof that the executive authorities were involved in corruption. The sensational news is what they were looking for! And the sensational news was missing because the Council did not have the capacity nor the mandate to undertake investigative activities.

The focus on seeking sensational news and exposure of the cases of grand political corruption meant that it neglected the everyday, systematic dealing with corruption, in particular administrative corruption, that which is associated with civil servants. That is how systematic work that is, any systematic investigation of the corruption, its causes, mechanisms, and consequences escaped the Council. Everything was virtually reduced to several axioms, such as "corruption is the greatest evil in our society", and then a new case of corruption was sought to once again "prove" that the government is corrupt.

Some analysis of the causes of corruption performed is not at a high analytical level. Major errors were made in terms of methodology, the conclusions were drawn that were very easily refuted, the recommendations were given for the fight against corruption that are hard or impossible to implement.

Instead of the analysis and systematic approach to corruption, the corruption hysteria was spread, the corruption was detected in each and every place and it was always political corruption, and the cases of corruption were referred to in the language used by the tabloids with largest circulation in the country. Simply, the Council has managed to bring the level of the debate on corruption to the lowest possible level and, by presenting the whole host of unverified positions and insults, to render it practically meaningless. What the Serbian Radical Party (SRS) in their parliamentary activities managed to do in terms of depriving the Serbian parliamentarianism of sense, the Council managed to do in the context of depriving of sense the debate on corruption. And by spreading the corruption hysteria and unverified accusations, the Council managed to make the accusations for corruption become a powerful weapon in the electoral campaign. That is why the largest opposition party, SRS, builds their electoral promises on the rhetoric such as "When we come to power, we shall finally settle the issue of corruption!" There can be no doubt that the activities of the Council and some of its members were misused and exploited for the purposes of everyday politics, i.e. in the fights between different political parties.

Surely, any public activity can be misused. However, a strong impression remains that, with its operating method, the Council had made it possible for the level of misuse to become very high.

By its doings, the Anti-corruption Council has largely discredited the fight against corruption in Serbia. Bearing in mind that we can soon expect that a new institution will be set up to replace the Council, this battle, regrettably, will not start from ground zero. After many years of the Council's activity, any new anti-corruption institution will first have to resurface from quite great depths.

Conclusion

The greatest progress Serbia made was on the plane of indirect anti-corruption policies. The institutional reform (reform of the economic system) and reform of the government, primarily economic policies, has started to produce results, particularly by decreasing, and in some areas eliminating, the benefits from corruption. Much lesser progress was made in respect of direct anti-corruption policies, primarily due to the fact that fighting corruption has not been at the top of the Serbian governments' list of priorities. The adoption or ratification of international conventions and other documents is primarily the result of the activities of the international community and to a much lesser extent of the autochthonous desire to create, through such ratifications, the environment more conducive to the battle against corruption. Finally, the activities of the Anti-corruption Council did not produce good results and have much discredited any anti-corruption efforts.

Appendix: Legal system in operation – case studies

THE "SUITCASE" SCANDAL

The "Suitcase" scandal broke out on 11 January 2006. The Vice-Governor of the National Bank of Serbia, Dejan Simić, was arrested in his home on suspicion that he had taken a bribe of EUR 100,000 to restore the operating license to a bank. Arrested together with him was Vladan Zagrađanim, SPS marketing director and member of that party's Managing Board. The then president of the Managing Board and now President of SPS, Ivica Dačić, had a narrow escape from the intervention of the Ministry of Interior. He had been in Simić's apartment before the police came. Simić and Zagrađanin were released from detention on 30 March and the investigation proceedings against them continued.

Ivica Dačić, the representative of Israeli TBI group, Vladimir Čizelj, and the NBS Governor, Radovan Jelašić were all interviewed in the course of investigation. Sekula Pjevčević, businessman, who said that the NBS leaders had requested two million euros from the shareholders of the bank whose operating license was revoked, to restore that license, was also interviewed. Simić and Zagrađanin were arrested based on the information which the prosecutor had received from Pjevčević. What is particularly interesting in this case is that the suitcase with the money, owned by Pjevčević, was returned to this businessman although it was supposed to be the main piece of evidence in the proceedings against the former vice-governor.

The charges against Simić and Zagrađanin were brought in June 2006. Thereby, the former vice-governor was indicted for receiving a bribe, and the SPS official for mediating in bribery. However, in October 2006 the non-trial panel of the criminal division of the District Court in Belgrade returned the indictment to the prosecutor's office explaining that it was necessary to have the inconsistencies in the description of the criminal offence committed remedied. It was only four months after that, in March 2007, that the District Public Prosecutor's Office returned the amended indictment by which Simić is charged with receiving the bribe of EUR 100,000 and Zagrađanin as an accomplice in bribery. With this the indictment became effective and the proceedings were resumed. According to some unofficial sources, the District Court had in those four months sent to the prosecutors a number of letters requesting that the indictment be returned but the prosecutors used the absence of legal obligation to do so within a specific period of time.

In April 2007, the District Court reject as ungrounded Simić and Zagrađanin's plea, so that now scheduling of the main hearing may be expected.

THE "BULLET-PROOF VEST" SCANDAL

The "Bullet-Proof Vest" scandal was launched towards the end of August 2005. It was disclosed by Mlađan Dinkić, the Minister of Finance. Based on the information obtained from the budget inspection, he accused the then Minister of Defence, Prvoslav Davinić, who came from the ranks of his political party, of concluding a prejudicial five-year contract on the procurement of military equipment worth EUR 300 million, with "Proizvodnja Mile Dragić" company. At the same time, Dinkić accused Dragić of corruption with the aim of gaining the "inflated" contracts.

Shortly after that, on 19 September, Mile Dragić was arrested under the accusation that he was bribing colonel Vučković, deputy head of the SM Army General-Staff Development Administration, and Vučković was suspected of receiving the bribe and, in return, enabling Dragić to conclude contracts worth EUR 175 million and lay foundations for a five-year arrangement worth 300 million euros. It involved the procurement of 69,000 helmets, more than 60,000 bullet-proof vests, and 500 pilot jackets. On the other hand, major-general Milutin Kokanović Deputy Minister of Defence for material resources, was indicted for the abuse of office.

The investigation also included former minister Davinić, for allegedly requesting the conclusion of such contract, and captain Igor Mihajlović, for concluding prejudicial contract and disclosure of confidential military documents. Dragić, Vučković and Kokanović were in detention for one month and the rest were detained for a few days. There were some speculations during this scandal that Svetozar Marović, then president of SM, and his son Miloš were also involved, as well as the Chief of Staff, General Dragan Paskaš, who in November 2005 gave the deposition about the disputed procurement of equipment. However, the investigation of these persons was not initiated.

The initiating of this scandal resulted first in the suspension and then annulment of the contract which the SM Council of Ministers approved on 22 August 2005, and the Minister of Defence resigned. At the same time, in October 2005, the Ministry of Finance Budget Inspection filed criminal charges against five persons, whose names were not disclosed under the explanation that this case should not be made personal.

In response, Dragić filed criminal charges against the investigative judge and the prosecutor of the Military Division of the District Court because they were conducting the proceedings in before the military and not the regular court. The court determined that there are not legal grounds to initiate criminal proceedings and thus the defendant appealed with the Supreme Court of Serbia, where the case is still pending. Therefore, the "bullet-proof vest" scandal has not yet made it further than the investigation.

In the meantime, the Ministry of Defence signed further three contracts with "Proizvodnja Mile Dragić" company in August 2006

explaining that this company was entitled to participating in public tenders since no final and enforceable decision was rendered against it.

CUSTOMS CORRUPTION

In two major police interventions, of 28 November and 22 December 2006, 17 and 15 persons, respectively, were arrested – mostly customs officers, but among them there were also owners of some companies and a number of exclusive shops. Interestingly, the arrested also included the Customs Administrations coordinators for fight against of smuggling.

What both groups had in common was that they were presenting the goods with false documents as if they were in transit through Serbia when, in real fact, they were unloaded in illegal warehouses and smuggled to fictitious companies and individuals without paying duties. The goods were mostly smuggled in trucks and trailer trucks which transported between 15 and 30 tons of the cargo. Whilst the first group smuggled to Serbia, mostly technical and textile goods from Turkey, Bulgaria, B&H, and Macedonia, the second groups forged the documents and falsely presented that trucks had left Serbia and went to Republika Srpska.

The indictment against the "customs mafia" was filed on 28 May 2007 by the special prosecutor for organised crime. It lists 28 persons who are accused of corruptive practices in the customs, receiving bribes, and abuse of office, as well as smuggling. According to the indictment, the goal of this criminal group was to have "certain beneficiaries of the alleged imports" avoid customs clearance, namely to enable them to smuggle excisable goods and oil products. The goods concerned were primarily high value commercial goods from China, Turkey, Bulgaria, and Macedonia. The goods was imported in Serbia in this manner in several hundred trailer trucks, so it is estimated that the damage to the state was several dozen million euros in taxes and customs duties.

Especially interesting is the operating method of this group involving fictitious importation of the goods into the territory of Kosovo. Namely, after passing the administrative crossing points, the goods would return to Serbia through illegal channels and the alleged importer of the goods in Kosovo was entitled to the tax refund. In this way, the damage to the state included the unpaid tax and customs duty, as well as the tax refund.

V Media and Corruption

THEORETICAL INVESTIGATION OF THE RELATIONSHIP BETWEEN THE MEDIA AND CORRUPTION

The analysis of the relationship between the media and corruption, namely involvement of the media in Serbia in fighting corruption should start with the review of previous theoretical investigations of the relationship between the media and corruption, namely main findings of such investigations. The main question in this regard is whether the free and independent media have any influence on corruption or not and, if yes, how strong is such influence. In other words, the question is whether the restrictions of media activity in a particular country, such as restriction of the freedom of entry and imposition of restrictions in respect of the activities of media companies, or restrictions of the contents and type of media reports, are factors of corruption? From the perspective of the battle against corruption, this question may be reformulated so as to read: can the media "liberation" policy, namely removal of the above restrictions, contribute to the battle against corruption to any significant extent?

The authors of one of the most important theoretical work on this subject matter, who gave their article the title "A Free Press is Bad News for Corruption", obviously believe that this is exactly so.[1] The authors presume that independent media are, in their opinion, the most effective mechanism for uncovering corruption and other violations of the law, or the rules. Accordingly, their theoretical hypothesis is that the countries with free media may expect a lower level of corruption. The theoretical explanation for this hypothesis is the following: according to the classification they have made, media reports on corruption fall under the external barriers to corruption, and such reports lead towards greater probability that the corruption will be uncovered which, according to the classical Becker's model of criminal conduct, results in greater anticipated value of the punishment (negative utility) for corruption and, therefore, reduces the incentive for corruptive practices. As seen by the authors, the effectiveness of this barrier, unlike internal barriers,

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1 Brunetti, A. and Weder, B. (2003) "A Free Press is a Bad News for Corruption", *Journal of Public Economics*, Vol. 87, pp 1801-1824

lies in the fact that it is much harder to buy off the journalists interested in the subject of corruption than the public servants who are not involved in corruption but are able to report it, which brings down the internal barrier to corruption.

Namely, considering that successful press reporting on corruption, particularly uncovering corruptive practices (assuming reports are truthful), brings the popularity and recognition to the reporter him/herself as well as the media company, thus increasing their current and expected revenue, so a lot can be lost by discontinuing the uncovering of corruptive practices. Therefore the amount of bribe aimed at discontinuing the corruption reports would be much higher than in the case of insiders who wish to whistle blow on corruption. The possibility of free entry into the media activity, leads to the establishment of new media companies, and therefore to new investigative journalists who, on principle, have an incentive to report on corruption. And if there is freedom of reporting, that is, there are no restrictions as to the media, such incentives will lead to increased reporting on corruption, and thus, to the likelihood of its uncovering. On the basis of that a theoretical hypothesis is made: more freedom of the media, less corruption.

The empirical research, or testing of this hypothesis in the above paper showed that there is a statistically significant link between the freedom of the media and corruption, considering that the assessment of the parameters of the freedom of the media is statistically significant and negative – the lesser the freedom the greater the corruption. However, the absolute assessment values of parameters are quite low. In other words, a relatively big change in the freedom of the media will not result in a big change in the spread of corruption, even if account is taken of different ranges of indicators of these two phenomena. Changes in corruption indicators and media freedom indicators show that the above findings are quite robust – statistical significance was lost in just a small number of cases but small absolute values of parameter assessments are still in place, which means that the correlation is not intensive.

Such a relationship between the restricted media freedom and the media as a corruption factor, namely the introduction of media freedom as a remedy against corruption, prevails in some other contemporary theoretical papers, regardless of whether they address the relationship between the media and corruption,[2] or, more generally, the relationship between the media and government policies.[3] However, this optimism is not shared by all contemporary authors since the formu-

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2 Stapenhurst, R. (2000) "The Media's Role in in Curbing Corruption", Washington, World Bank Institut

3 Besley, T. and Burgess, R. (2001) "Political Agency, Government, Responsiveness and the role of the Media", *European Economic Review*, Vol. 45, pp. 629-640 and Stromberg, D. (2001) "Mass Media and Public Policy" *European Economic Review*, Vol.45, pp. 652-663

lated models have revealed the restrictions which may stand in the way of the beneficial effects of free media with regard to the suppression of corruption, namely, the restrictions that may be in place with regard to the use of free media as the means for fighting corruption.[4]

The first restriction that may appear is the collusion between the media and the government. If the media expose corruption among the government's ranks, the government may corrupt the media, namely collusion may be created between the media and the government. The reliability or sustainability of such collusion should be studied from the point of view of incentives for all parties not to thwart the agreement, and, as the cartel theory demonstrated, this incentive is the credibility of the punishment that may be meted out to those not living up to what was agreed. To the extent in which the corrupted government cannot unreservedly trust the bribed media or journalist, the media may constitute a barrier to corruption.[5]

The other restriction refers to the situation in which the corrupted government publicly reacts to the true allegations of the media or journalists. If the Government assesses that such a reaction may mitigate the damage caused by the media allegations, and that such mitigated damage is less than the benefit arising from corruption, then free media are not much of an obstacle – the government will continue with its corruptive practices. A situation like this is probable when the media in some country have a bad reputation, namely their reports have a low level of credibility. If, for instance, a newspaper with a low reputation publishes a truthful report on corruptive practices of the government, the government could relatively easily mitigate or eliminate the damage incurred.

Finally, the theoretically most interesting is the situation when the media may, aiming to increase their circulation/ratings, that is, to increase their revenues on this basis, start false reports on the corruption in the government – although the corruption is not present, the media publish sensationalist reports on its existencee. The media can do this if the government has no means of effectively responding to such fallacious accusations, namely to credibly deny false accusations. In such circumstances, the incentives emerge for the government to start with corruptive practices. In the situation when they cannot fend off the (false) accusations, that is, when their reputation is already marred, the government will find it alluring to gain any benefit from the situation in which everybody consider them corrupted. All the above findings of this theoretical model demonstrate that the correlation between media freedom and corruption is far more complex than what it seemed to be at first sight.

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4 Vaidya, S. (2005) "Corruption in the Media`s Gaze", *European Journal of Political Economy*, Vol.21, pp 667-687

5 Certainly, besides corrupting, one should take into account the possibility of journalist intimidation as the alternative or complementary measure taken by the government.

This is particularly true if those findings are supplemented by the findings relating to the possibility to have powerful interest groups with a decisive influence on the media, their contents, and their reports.[6] These reports are associated with the private media – strong interest groups or powerful individuals own the media, sometimes directly, but not even the domination of the state ownership, as it turns out,[7] does away with this problem, considering that media freedom is diminished in such a case, the influence of the government grows, and political freedoms diminish. Finally, it was noted that also in the case of private media and their competition on the market, even when the corruption is virtually non-existent in a society, the tendency towards biased reporting still exists.[8] When all this is taken into account, there evaporates the rosy picture of the media freedom suppressing the corruption. This, however, does not mean that media repression is not a factor of corruption – only that mere discontinuation of such repression, namely establishment and enhancement of media freedom, will not as such lead to any radical downturn of corruption in a country.

MEDIA ON CORRUPTION IN SERBIA, 2003-2005

As needed for the analysis of media reporting on corruption in Serbia after the year 2000, the focus was shifted to the printed media and more than 3,000 articles on the subject of corruption, published in the period from 2003 to 2005, were collected. Electronic media were excluded from the analysis since it was not possible to obtain appropriate documentation, i.e. recordings of the electronic media programs. Also, in the case of printed media, it was not possible to obtain the press clippings pertaining to the period before the year 2003. The analysed articles were published in all weekly and daily newspapers in Serbia in the above period. Out of these 3,000 articles, a sample was created comprising 1037 articles (one third). The sample collected like this was analysed in such a manner that each published article was assessed and, based on a specific criteria, classified into the appropriate group.

The first indicator is whether the article is signed by a full name or only initialled, or whether it is transmitted news or an interview. The next indicator concerns the type of the article. Namely, all articles are classified into the following groups:

1. generally about corruption
2. a specific case of political corruption – "scandals"
3. a specific case of administrative corruption

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6 Corneo, G. (2006) "Media Capture in a Democracy: The Role of Wealth Concentration", *Journal of Public Economics*, Vol. 90, pp. 37-58

7 Djankov et al (2003) "Who owns the Media?", *Journal of Law and Economics*, Vol. 46, pp. 342-381,

8 Baron, D.P. (2006) "Presidential Media Bias", *Journal of Public Economics*, Vol. 90, pp. 1-36

4. generally about corruption in a specific sector; for instance, in the judiciary, customs, health care, education, and similar
5. generally about political corruption

Also analysed was the length of the article. By this criterion, the articles were classified solely to two groups: is it a short or long article? Besides the length of article, in order to assess the importance which the medium or the editor attaches to the topic of corruption, we also analysed the page on which the article about corruption was published: as "page one", "page two or three" and "other".

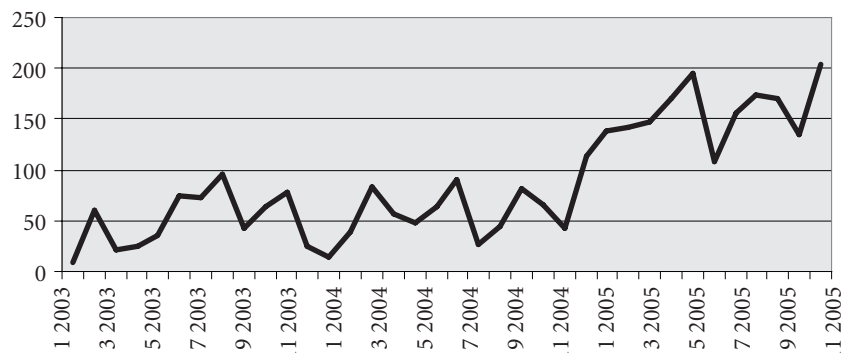
Moreover, the articles were grouped as follows:

1. positive (value neutral) analysis of corruption, which only involves the studying of the facts and causal links;
2. normative analysis – assessment of the event, that is, value analysis of identified corruption.

FINDINGS OF THE ANALYSIS OF PRESS ABOUT CORRUPTION IN SERBIA

The first thing that catches the eye is the strongly growing number of articles covering the issue of corruption over time:

Figure 5.1 Monthly frequency of articles about corruption



While in the beginning of 2003 the average monthly number of such articles was below 50, by the end of 2005 it grew to over 150.

The table below gives an overview of the number of articles in the sample covering the subject of corruption by the year.

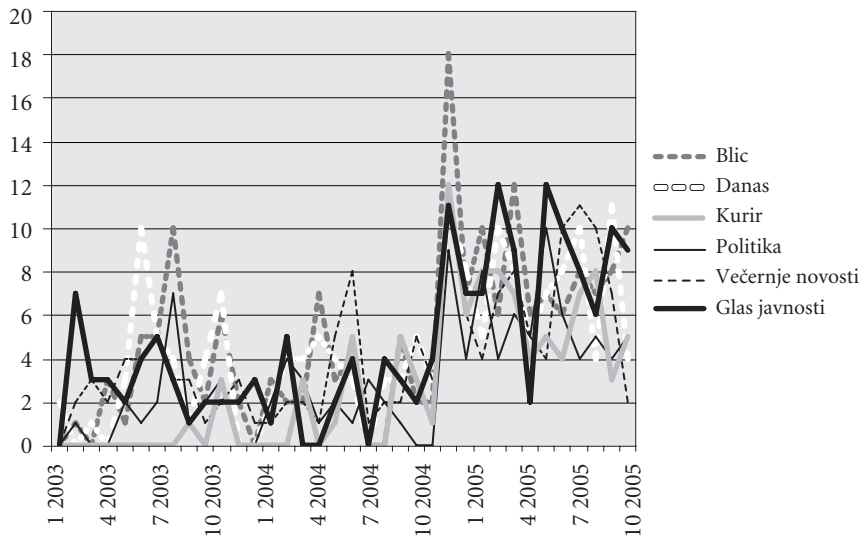
Particularly noticeable is the rise in the number of articles from the beginning of 2005 and this trend is followed by all largest daily newspapers in Serbia.

Table 5.1

Newspapers	2003	2004	2005	Total
Blic	39	30	105	174
Danas	37	36	91	164
Glas javnosti	34	28	103	165
Kurir	4	18	77	99
Politika	32	33	86	151
Večernje novosti	19	19	70	108
Other daily newspapers	26	43	36	105
Weeklies	9	12	50	71
Total	200	219	618	1037

The correlation of the monthly number of articles between all newspapers is relatively high and statistically significant.

Figure 5.2. Monthly frequency of articles about corruption in daily newspapers



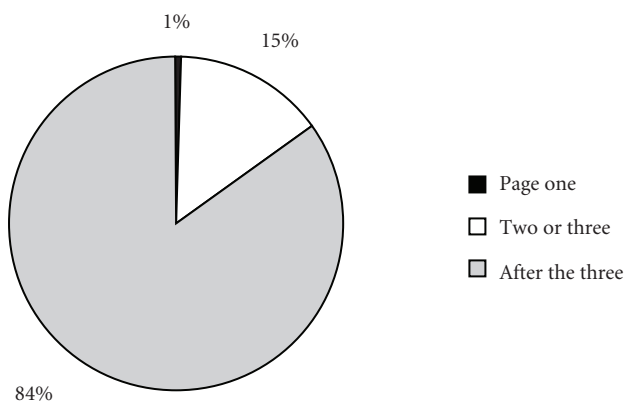
The question is how to interpret these findings. One of possible interpretations is that it is only the case of reprinting of news, i.e. that one newspaper reports something and then other papers follow suit. Based on the available data we can neither refute nor confirm a hypothesis like this. The other, maybe more realistic interpretation is that the noted correlation is false and that all newspapers write in correlation with real events

on which the reports are made (real life corruption), namely, that the newspapers absolutely autonomously write about the same things, and that the frequency of articles is imposed by the reality. Considering that there are no data about the frequency of corruption in real life, this is yet another interpretation that cannot be empirically verified.

Table 5.2

	Danas	Kurir	Politika	Večernje novosti	Glas javnosti
Blic	0.69	0.76	0.62	0.76	0.62
Danas		0.63	0.67	0.57	0.66
Kurir			0.75	0.66	0.68
Politika				0.49	0.65
Večernje novosti					0.66

Figure 5.3. Page where the articles about corruption are published

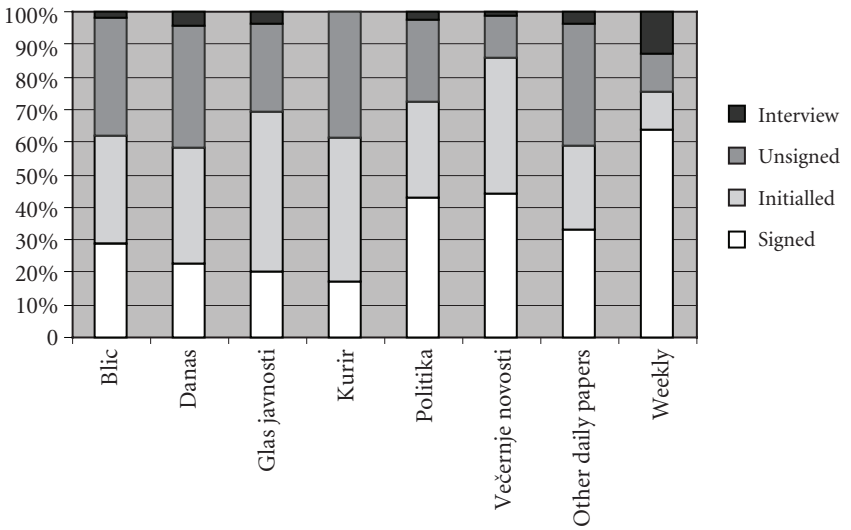


It has been noted that the newspapers, although they relatively often write about corruption, attach relatively low importance to this issue, considering that only 0.7% of the articles appeared on page one, about 14.5% pages two and three, and that a large majority of articles, almost 85%, were published on a page after the third. All in all, out of approx. 4000 first pages published in the period 2003-2005, only about twenty carried the article about corruption published on page one.

The next thing we have tested concerns the signing of articles, namely identification of the person who is publicly presenting the facts and judgment about corruption. We expected that the share of unsigned articles would be much greater in tabloids than in serious papers, "long form" newspapers. Although we have confirmed this hypothesis to

some extent (the share of the articles signed by full name and surname or only by initials was 72% in "Politika" and more than 85% in "Večernje novosti", and, above all, only 61% in "Kurir"), these elements do not suffice to draw a conclusion since many unsigned article are simply the transmitted news from some other newspapers. Hence, there are indications that "less serious" papers publish more articles of anonymous authors but we cannot confirm this hypothesis based on the available data. Also, as it was expected, the share of the articles signed by the full name and surname was largest in the weeklies.

Figure 5.4. Signing of articles



Also, the practice of (non-)signing articles did not change to any significant extent in the period 2003 – 2005. There was a slight increase in the share of articles signed by the full name and surname and a slight decrease in the share of interviews and the articles which were only initialled.

Table 5.3. Signing of articles

Author	Share			
	2003	**2004**	**2005**	**Total**
Signed	28%	32%	33%	32%
Initialled	40%	36%	34%	35%
Unsigned	27%	29%	31%	30%
Intervew	6%	4%	2%	3%
Total	100%	100%	100%	100%

Also interesting is the issue of the length of the articles covering corruption. The Table below shows that there have been some changes in the article structure in these three years to the effect that the share of longer articles increased.

Table 5.4. Lenght of the articles

	2003		2004		2005	
Papers	Short	Long	Short	Long	Short	Long
Blic	69%	31%	67%	33%	49%	51%
Danas	51%	49%	47%	53%	52%	48%
Glas javnosti	71%	29%	61%	39%	66%	34%
Kurir	25%	75%	83%	17%	57%	43%
Politika	56%	44%	30%	70%	42%	58%
Večernje novosti	53%	47%	74%	26%	40%	60%
Other daily newspapers	13%	88%	55%	45%	37%	63%
Weeklies	47%	53%	23%	77%	8%	93%
Total	55%	45%	54%	46%	48%	52%

Tabela 5.5. Topics of articles

Papers	**About corruption in general**	**"Scandals"**	**Specific cases**	**Generally about corruption in a specific section**	**Generally about political corruption**
Blic	28%	3%	42%	12%	14%
Danas	30%	0%	43%	8%	19%
Glas javnosti	15%	1%	53%	8%	22%
Kurir	15%	5%	43%	8%	28%
Politika	29%	1%	39%	9%	21%
Večernje novosti	19%	1%	56%	9%	15%
Other daily	34%	1%	38%	10%	17%
Weeklies	35%	3%	34%	8%	19%
Ukupno	26%	2%	44%	9%	19%

The topics dealt with by the articles on corruption were classified in the following groups: general articles on corruption (classified in this group are the articles about the institutions dealing with corruption, for instance, the Anti-Corruption Council), articles dealing with specific cases of political corruption, the so-called scandals, articles dealing with specific cases of administrative corruption, articles dealing

with corruption in general in a specific sector, such as in health care or judiciary, and articles dealing with political corruption but not the specific cases thereof.

It may be noted that scandals are relatively small in number. There are two possible explanations of such results. The first explanation is that there indeed were a small number of the articles about scandals but that, because of their significance, these articles are conspicuous and that is why it seems to everybody that they were greater in number. The second, probably more realistic and more accurate explanation is that many articles about scandals remained outside the articles analysed by us because such articles may have been earlier (by preliminary selection of articles) classified in the articles on politics and not corruption.

Considering that there was relatively much reporting about specific, concrete cases of corruption, namely corruptive practices (44%), we considered it useful to see with which segments of public life these cases were associated. The table below shows an overview of the findings.

Table 5.6. Institutions

Sector	2003	2004	2005	Total
Customs	1%	4%	0%	1%
Inspections	1%	2%	1%	2%
Local government	1%	1%	1%	1%
Police	31%	16%	7%	13%
Judiciary	8%	46%	36%	33%
Business	9%	0%	0%	2%
Education	8%	17%	7%	9%
Health care	41%	13%	48%	40%

As may be seen in the Table, the papers have mostly written about the specific, concrete cases of corruption in health care, judiciary, police, and education (95% of articles in all). It is interesting that the customs was ranked "low" – although the results of empirical research suggest that customs service is among those most vulnerable to corruption, the printed media have only a small number of reports about it.

Almost 10% of the articles deal with corruption in a particular sector, at a general level. The distribution of articles is shown in the table below.

A certain difference may be noted in respect of the specific cases. For instance, 17% of the articles deal with corruption at a local level. However, not a single specific case of corruption at the local level was "processed" in the papers, probably because there were relatively few cases like that. On the other hand, even though there were relatively numerous specific cases of corruption in the police (13%), only 4% of the articles addressing the corruption in a specific sector dealt with the

issue of police corruption. In the case of the judiciary, health care and education, the numbers were almost identical in the two tables. It is noticeable that, again, there were only a small number of articles about corruption in the customs.

Table 5.7. Sectors

Type of article	Share			
	2003	2004	2005	Total
Health care	30%	15%	41%	34%
Education	20%	5%	11%	10%
Police	10%	15%	0%	4%
Judiciary	10%	50%	29%	31%
Customs	0%	0%	5%	3%
Local government and politicians	30%	15%	15%	17%
Total	100%	100%	100%	100%

We have also analysed the extent to which an article relies on facts. Thus, we have classified the articles into two groups – those that fully rely on facts and those with some elements of speculation.

Table 5.8. Profile of articles

Facts	2003	2004	2005	Total
Relies exclusively on facts	78%	81%	94%	88%
There are some speculations	22%	19%	6%	12%
Total	100%	100%	100%	100%

We have considered the articles in which there was some speculation but the paper has truthfully conveyed somebody's quote to be the articles that rely on facts since the papers solely transmitted what somebody had said. Apparently, the journalists in Serbia only reluctantly resort to speculation. They rather hold on to the facts, regardless of the extent to which these facts are verified. Also, they are willing to accept somebody else's speculation but not the accountability for their own.

The largest number of articles deals only with the positive analysis of events, answering the questions: who, when, where. However, this analysis does not go to any greater depth either, the causes are not investigated, or they are addressed only perfunctorily. A smaller number of articles, only about 20%, address the questions of why and how the corruption arises or what are its consequences.

Table 5.9.

	2003	2004	2005
Positive analysis	79%	74%	83%
Normative analysis	21%	26%	17%
Total	100%	100%	100%

A general assessment may be that the quality of the articles with a normative component is very low. In most cases, those are emotionally charged (sometimes even hysterical) accusatory articles which do not communicate real causes and consequences of corruption but are reduced to moral finger pointing and unjustified generalisations.

Generally, the printed media's level of reporting about corruption is quite low in Serbia. These reports are dominated by the sensationalism and presence of analytical-investigational journalism is very small. Even though corruption has doubtlessly imposed itself as one of the most important topics for the media in Serbia, the manner in which it is done does not give much reason for optimism.

VI Corruption in Serbia 2001-2006: Analysis and Evaluation of the Effects of Change

The empirical analysis of the spread and intensity of corruption in Serbia showed that it is reduced, namely, that the phenomenon has subsided. Corruption in Serbia is lesser in 2006 than in was in 2001. The findings of the analysis of attitudes, namely public perception, could not produce any distinctive conclusion in this respect, considering that it was not possible to examine whether such change is statistically significant or not. In other words, no conclusion about the existence or the direction of the change (of perception) of the spread and intensity of corruption in Serbia can be made based on the analysis of public perception and attitudes.

In contrast, the analysis of perception and experience of business people showed that there has been a statistically significant reduction in the spread and intensity of corruption in Serbia. In this regard, the conclusion is the same regardless of the specific indicator of corruption used: indicator of corruption spread (answer to the question how common is it for a company to make irregular payments in order to have some things done), offers of corruption (answer to the question how often have public servants directly asked for money, a gift, or a favour), corruption intensity (answer to the question what percent of total revenue is set aside for "informal payments"), as well as general impression about the change in corruption level (answer to the question in comparison with the period of three years ago the informal payment situation is…). The spread of the corruption aimed at exercising one's rights (corruption in the form of extortion) has been particularly reduced, whereas in some cases, in the opinion of businessmen, the spread of the corruption aimed at breaking the law or influencing the content of legislation has increased.

How to interpret these changes? What are the factors that caused these changes? Useful for answering this question is the classic Becker' model of criminal behaviour which says that incentives for corruption lie in the difference between the expected utility from corruption as a criminal offence and the expected punishment for the criminal offence (threatened punishment and probability that such punishment will be meted out in that particular case). The greater (the positive) difference

between these two values, the greater the incentives for the growth of corruption. According to the findings of our empirical research, it could be said that the (positive) difference between these two values has narrowed in Serbia. What has happened? Was it of critical importance that the expected benefits from corruption decreased, or that the value of the expected penalty for such criminal offence increased?

The expected benefits from corruption lie in the possibility to obtain rent by corrupting public servants or politicians, and such possibility depends on specific public policies, that is, government intervention, such as protectionism (protection of domestic manufacturers), regulation (such as regulation of new entries to an industry), etc. All surveys conducted thus far have unambiguously shown that the increased level of government intervention, namely increased level of government interference with economic developments, inevitably leads to the increase of rent and, thus, to the increase of expected benefits from corruption.

Considering that indirect policies of the fight against corruption substantially influence the formation of rent, i.e. the possibility to obtain a part of such rent through corruption, it is clear that such policies produce changes, i.e. decrease of the expected benefits from corruption. What policies of this kind have been implemented in Serbia since 2001?

These include foreign trade reform, oriented towards liberalisation and deregulation, which means lowering of custom tariffs, elimination of quantitative restrictions, and facilitation of cross border trade in goods. The reform of public finance resulted, on the revenue side, in the introduction of value added tax, simplification of tax rates, and strengthening of tax administration, while on the expenditure side, it led to the establishment of treasury system and centralised public expenditure management. These two changes then caused considerable narrowing of the space for corruption, namely diminishing of the incentives to customs and tax payers to resort to corruption to evade customs/tax burden, and thus appropriation of rent.

The area of public procurement, one of the most vulnerable areas in terms of corruption, is governed by the law which is a combination of some good and some not-so-good solutions. However, the very fact that a modern law was enacted in this area shows that there was a turnaround compared to the time before 2001, when public procurement was virtually legally unregulated and dominated by business people close to the then regime.

Very little has been done with regard to subsidies, the transfers which always provide fertile ground for corruption. Namely, subsidies as a form of public expenditure are still deemed to be desirable in Serbia, both on the ideological plane ("the government should help people"), and in terms of political practice ("those who get the subsidies will vote for me in the next election"). In such circumstances subsidies are certain to continue being a source of corruption in Serbia.

Even though it is customary that privatisation in Serbia is named as one of the greatest sources of corruption, the assessment has demonstrated

that the current model of privatisation (the one implemented since 2001) is more robust than the alternative models. The reason for this is relatively high transparency of the privatisation process which establishes concentrated majority ownership over the privatised company's equity. Namely, it turned out that more susceptible to corruption are the procedures of taking over the companies privatised under the previous legislation, the model which resulted in internal allocation and high dispersion of shares. It also came to light that the takeover process was relatively poorly regulated and that it created incentives for corruptive practices. It is, therefore, no wonder that the largest scandals ("Knjaz Miloš", etc), which are mistakenly associated with the privatisation model of 2001, are actually connected with the takeover of companies privatised pursuant to the legislation in force before 2001.

Bankruptcy legislation could be a significant source of corruption per se, particularly the poorly formulated bankruptcy legislation that was adopted in Serbia already in 1989 and applied until recently. This legislation, effectively, protected the debtor and not the creditor, the bankruptcy procedure could last practically indefinitely, and almost all bankruptcy scandals in Serbia are associated with the application of this law. One of the greatest problems not only of the indirect anti-corruption policies but of the overall legal reform was delayed adoption of new bankruptcy legislation and then, also, delays in its implementation.

Finally, changes in the legislation governing the issue of company registration, i.e. registration of ownership, have greatly diminished the administrative barriers to entry of new companies and, accordingly, increased competition, that is, reduced the rent and thus, the space for corruption. All surveys conducted worldwide showed that there is a link between the barriers to entry and corruption – the higher the barriers to entry, the greater the spread and intensity of corruption. Lowering the barriers to entry is good not only from the perspective of economic efficiency and growth, but it also has beneficial effects on the fight against corruption.

It is obvious that mixed results have been produced at the level of indirect anti-corruption policies: in some areas considerable progress has been made, some areas saw stagnation or even slight backward trends. However, one may say that a moderate progress was recorded. Whether that progress was of critical importance for the above mentioned brining down of the spread and level of corruption in Serbia or not, is the question which can be answered only after studying the Government's direct anti-corruption policies.

Direct anti-corruption policies are those that, primarily, lead to the increase of expected value of the punishment for the criminal act of corruption, or other forms of corruptive violation of the law. The Law on Financing of Political Parties is doubtlessly a very important component of these policies, considering that it regulates a very sensitive area. The Law is consistent but very restrictive, so, practically, there exists a taciturn agreement between all political parties that this Law is not to

be too strictly implemented. The Law on Prevention of Conflict of Interests in Discharge of Public Office predominantly comprises good provisions, although it has many imprecise and, sometimes, contradictory formulations. However, the greatest problem of this Law is its penal provisions, since they are too lenient, reducing the expected value of the punishment, that is, the cost expected by the potential offender.

The national judicial reform strategy is a document which, on principle, should ensure the improvement of judicial operations, increase of the probability of conviction for all criminal offences and, consequently, increase of the expected probability of punishment. In this respect, a well developed and implemented strategy of this kind would drastically raise the cost of corruption and thus reduce the incentives for the involvement in corruptive practices for any interested persons. Even though the strategy was assessed as a document that can offer certain results, it is obvious that so far there has been no political will for its implementation, i.e. for overall judicial reform. It is clear that in its two terms of office (2001-2003 and 2004-2007), the Ministry of Justice was more engaged in the public debate with judiciary officials and refused any responsibility for what was happening or, rather, not happening, in the judiciary, while the highest judicial officials were mostly preoccupied with themselves and, accordingly, almost all attempts of critical review of their practices were labelled as attacks on the independence of the judiciary. In other words, the practices of the competent bodies have so far given little reason for optimism in this area, although one should always remain hopeful that improvements in this area are possible.

The anti-corruption strategy should be one of the key documents of a transition country. Namely, transition is the time when both the constitutional framework of a country and the value system of its population change. In such times of change, it is reasonable to expect that the spread of corruption cannot be prevented by regular public policies, or regular measures, and that is why the anti-corruption strategy is needed. The issue with the anti-corruption strategy adopted by the National Assembly, however, is not that it was adopted but rather the manner in which it was adopted, and its contents. The main reason for the adoption of the strategy was strong international pressure, primarily from international organisations (Council of Europe, OSCE, etc), and not the autochthonous political will of the ruling, or largest political parties in Serbia. Simply put, for the leading domestic political forces a strategy like this, as such, was not a priority – it was only the international pressure that caused its development and adoption. As regards its contents, as already mentioned, the positions expressed are mostly general, often quite muddled, and sometimes contradictory. Therefore, the question is to what extent such text of the strategy can be used as the platform for fighting the corruption in an effective manner. It seems that the authors sought to strictly formally satisfy the often contradictory demands put forward by the representatives of international institutions, rather than to create a clear and consistent document. Finally,

the strategy completely fails to address the public policies, namely, indirect fight against corruption (liberalisation and deregulation of the country's economic environment), but deals exclusively with direct measures, primarily enforcement measures of the government.

The Law on Prevention of Money Laundering should serve to reduce the expected utility from corruption, considering that, generally speaking, it precludes the legalisation of the proceeds of corruption. Although there was some debate with regard to the content of the law, namely, individual legal provisions, it is beyond doubt that its implementation is a much bigger problem. Its past implementation did not constitute a significant barrier to corruption. The same findings may be applied to the Law on Free Access to Information of Public Interest. Generally speaking, such a law should provide for greater transparency of public sector in a country. However, the problem of its implementation remains and, with it, the problem of its effects.

The comparative analysis of direct and indirect government anti-corruption policies unambiguously shows that direct government policies for combating corruption are far behind the indirect ones. Namely, relatively small steps forward with regard to direct policies cannot by themselves explain the statistically significant decrease in the spread of corruption and of the new corruption in Serbia. Indirect anti-corruption policies prevail, and there is no doubt that they have had a dominant impact on bringing down the spread and level of corruption in Serbia.

The very fact that these are indirect anti-corruption policies leads to a conclusion that the motives for their application are not or need not be related to the fight against corruption. For example, the liberalisation of foreign trade may be motivated by the (sincere) desire to integrate domestic economy into global economic flows, international community's requirements in this respect, or the pressure of domestic stakeholders who find that such liberalisation suits their needs – and none of these is related to the fight against corruption. It is another matter that a by-product of the foreign trade liberalisation is the reduction of incentives for corruption and, accordingly, lowering of its level. Moreover, the privatisation, that is, the selection of the privatisation model and its implementation are motivated by the factors that have nothing to do with battling corruption – creation of good ownership structure in terms of corporate management, or maximisation of the privatisation proceeds. Due to this, the progress of a country in the area of indirect anti-corruption policies is not necessarily related to the commitment of such country's government to fight corruption.[1]

On the other hand, the area of direct policies clearly shows that there is a lack of political will – the battle against corruption is not at the top of the government's political priorities. There are several reasons for

[1] Of course, one should not rule out that a part of the government's motives relating to indirect policies may be the fight against corruption, but simply, such motives are never decisive in the case of indirect anti-corruption policies.

this. First, Serbian governments are coalition governments, which means comprised of a number of different parties. Internal stability of those governments depends on a kind of balance achieved within the coalition, and corruption very often plays an important role in the achievement of such balance – the prime minister of such a government has no incentive whatsoever to reveal corruption scandals of his coalition partners, since it is the unrevealed rather than revealed scandals of this kind that are powerful weapons for political blackmailing of the partners and maintenance of the balance (of fear). Even if this mechanism is not in place, coalition governments are inherently unstable and therefore do not have solid foundations for a strong fight against corruption. Finally, corruption ranks very high on the list of topics in the inter-party or pre-electoral rhetoric. Opposition parties fiercely and, most often, without valid arguments, attack the government for corruption and promise, without much credibility, that as soon as they come to power, their first step will be to eliminate corruption. In such circumstances, the exposure of corruptive practices within the government or public administration could be a double edged sword. Although, on the one hand, it demonstrates that the government is fighting corruption, on the other, it demonstrates that the corruption exists, which gives weight and credibility to the opposition parties' rhetoric.

In addition to the lack of political will and commitment of the government to fight corruption directly, some conceptual dilemmas regarding the most suitable institutional solutions have also been unresolved for a very long time. After many years of wandering, it seems that the government's future anti-corruption concept is now beginning to crystallise. While a new, specialised body – the Agency – should address the issue of political corruption, the "classic" corruption, the one which involves public servants, should be addressed by the regular mechanisms of the legal system, that is, regular bodies: the police and the judiciary (prosecutors and judges). However, it remains unclear how long it will take for such an organisational arrangement to become effective, to start producing results. That will depend on the political will, i.e. on the commitment to implement direct anti-corruption policies. However, even if the political will or is created, that is, if the commitment is made to implement these measures, it will take time to put all that in motion. Namely, two efficient services are needed for the implementation of this strategy: the police and the judiciary. Previous research showed that it is the judiciary that creates a bottleneck. Some time will be needed for the judiciary reform to take effect. Even if we presume that things will get better in this respect (they can hardly be worse than during the terms of office of former ministers of justice, in 2001-2003 and 2004-2007), it will take time to feel the effects of these changes.

Taking into consideration all the above restrictions with regard to direct anti-corruption policies, it is highly likely that indirect anti-corruption policies in Serbia will prevail over the direct ones for yet some time to come. The reasons for this belief should not be sought solely in

the weaknesses or restrictions relating to direct anti-corruption policies, but also in the strength of the motives on which indirect policies are founded. These motives are many and different, which adds to the strength and sustainability of the indirect anti-corruption policies in Serbia. First, there is no doubt that present government in Serbia is eager to integrate the country into Europe, in the first phase through the stabilisation and association process, and, at a later stage, by accession to, i.e. membership in the European Union. This process unavoidably leads to the adjustment of public policies and institutional arrangements to bring them to the level of (European) market economies. In addition, a part of the accession is the full liberalisation of economic flows with the EU member countries, which in effect means full liberalisation of the largest part of Serbian foreign-trade flows. Second, it is obvious that there exists a strong desire to build the environment for the attraction of foreign direct investments, which would promote economic growth and increase employment, i.e. reduce unemployment, by reforming the economic system towards the establishment of a true market economy. Third, even though Serbia was repeatedly imposed conditions, which was a mechanism for its integration in the international community, in the last several years these conditions primarily focused on the cooperation with the Hague Tribunal and similar political undertakings and to a much lesser degree were these conditions connected with institutional reforms and government, primarily economic policies, and imposed by international financial institutions. After the above cooperation is ensured, it is to be expected that the conditions imposed by the international community will primarily be focused on government or economic policies and, in particular, the institutional reform. This means that pressure may be expected in the direction of greater liberalisation and deregulation, key elements of indirect anti-corruption policies. Clearly, there are strong and different motives for deregulation and liberalisation, which is good if we take into account that Serbia has numerous and powerful interest groups opposing such government policies.

The intensification and acceleration of liberalisation and deregulation, that is, the increase of economic freedoms, will not only strengthen indirect anti-corruption policies but will also reduce the need for existence of special anti-corruption institutions and special measures. With this the things return to regular mechanisms, to the procedures in the legal system which treat corruption as any other criminal offence. Naturally, we have yet to see whether in future Serbia will be able to rely on all those above described government motives for further liberalisation and deregulation or whether the interest groups striving to maintain the closed, regulated, and government-managed economy will prevail.

Serbia has certainly made progress, i.e. produced results in the fight against corruption after the year 2000. Government policies have changed and the government, after all, demonstrated a certain degree of commitment to fight corruption (unlike the government before

October 2000 which demonstrated a high degree of determination to maintain and promote corruption), and these changes have inevitably yielded results in respect of reducing the spread and intensity of corruption in Serbia. On the other hand, relatively little has been done in terms of direct government anti-corruption policies, primarily due to the lack of political will, which was largely the result of weak, sometimes even minority coalition governments ruling in Serbia since October 2000.

What is the future of the fight against corruption in Serbia? If the country is ruled by the political forces whose political interest lies in association with Europe and further integration of our country into the world, then direct and, particularly, indirect anti-corruption policies will have to be implemented automatically. If, on the other hand, it is ruled by those political forces which do not see their political interest in Serbia's association with Europe, or are indifferent to this issue, then it will remain uncertain what will happen with the corruption in Serbia.

VI Updating of Anti-corruption Strategy from 2001

INTRODUCTION

In line with the analytical character of this study, in the last chapter of this study we shall attempt to assess

- to what extent the anti-corruption strategy that we proposed in the book from 2001 withstood the test of time and presented a valid strategy to the government at the time,
- in what way that strategy should be amended and possibly complemented by new elements so that it would remain up-to-date.

These two questions do not present merely an ex post analysis of the ideas presented five or more years ago, which can be interesting, but not particularly useful, but also a substantive comparison of the corruption mechanisms active in the course of the previous years with the measures undertaken by the government (if any), with an assessment of their efficiency. Moreover, at the end we shall state what, in our opinion, should be done further with regard to the fight against corruption.

ANTI-CORRUPTION STRATEGY FROM 2001

It is worth reminding of the key elements of the strategy the CLDS team suggested five, almost six years ago.

Three key factors of the proposed strategy were as follows:

- reduction of the government role in the economic and social life, reducing the area in which corruption may arise,
- introduction of accountability of the government bodies and institutions, increasing the information level and facilitating corruption identification and
- impact on the motivation system of civil servants, providing incentives to them to observe the rules and disincentives to engage in corrupt practices.

The following were mentioned as the most important areas of the fight against corruption:

- political sphere, where we advocated the provision of full competition and stressed the importance of regulation of party financing and conflict of interest,

- judicial sphere, where we pointed out the necessity of this system's reform, based on the change of judges, ensuring the judiciary's independence and new principles of judge election,
- fiscal sphere, where we suggested a complete reform – from budget procedures, methods of operation of the tax and customs administration to, most importantly, the establishment of a competitive public procurement system,
- public administration reform, where we proposed changes in all areas: composition change, depoliticization and professionalization, qualification improvement, permanent training, wage increase, integration of ethic principles of conduct, work transparency, etc.; we particularly pointed out the necessity of these changes in the police and health care.

We also proposed the formation of three independent institutions which could be very useful in the fight against corruption. Those are as follows:

- anti-corruption agency, which would lead the fight against corruption,
- main supervision, which would perform financial supervision (audit) of the operation of government bodies and
- ombudsman, who would protect the rights of citizens from the government arbitrariness.

The most important precondition of successful fight against corruption was deemed to be the existence of political will at the highest level for the government to tackle seriously this social disease.

When the proposed strategy presented by CLDS is observed from this time distance, it can be concluded that it was a concept well suited to the circumstances in Serbia at the time, i.e. difficult corruption heritage from the previous regime and the need to build completely new institutions not only for the purposes of the fight against corruption, but also transition from socialism into a liberal-democratic society.

This concept certainly shared the basic construction blocks with the whole class of proposed strategies for transition countries and completely fitted into the modern trends at the time. In its essence lay the construction of proper mechanisms for good administration of the state in the post-transition period as a better method of combating corruption than repressive campaigns.

The governments of Serbia have, as already stated, been, to a greater or lesser extent active in combating corruption during the past years, with the basic characteristics along the lines proposed by CLDS in its strategy.

POLITICAL WILL

The first condition for successful fight against corruption has been firm political will at the highest level to combat this negative phenomenon. If there is none, corruption is likely to flourish despite any proclaimed strategy or policy.

In the developed part of the world such special political will is not particularly necessary, since government law enforcement institutions (police, prosecutor's office, judiciary, etc.) operate at a decent level and essentially ensure continuous fight against corruption.

In the countries with less mature and reliable government administration, including the judicial branch, government bodies are not certain to perform their work in the necessary manner in regular procedure, without constant prodding by the highest political level. It may be deterred in this both by its own weaknesses (bad legislation, lack of qualifications, corruption, etc.) and by negative signals coming from the political sphere, such as the protection of participants in corrupt practices with ties to the officials. For that reason, for successful fight against corruption in these countries it is crucial to have political support for the police, investigative and judicial bodies coming from the highest level of enlightened government.

Still, this support is not usually easy to ensure. The first cause of its lack can be the corruption of the highest authorities themselves, so any expectation of encouragement from their part would be an illusion.

Other causes will be sought in political processes. Namely, the most powerful weapon of the authorities in combating corruption can be its desire to serve public interest, i.e. to increase general welfare. Such moral authorities, authorities committed to general good, will certainly take the fight against corruption as one of its highest priorities, starting from the correct assessment that it is impossible to do good deeds with diseased government administration and that it first needs to be cured by combating inflation.

Such idealistic government can frequently be found in older politics textbooks, but it is, unfortunately, uncommon in modern democracies, in particular the young ones. In real life most common are the authorities for which morals are not the cornerstones of their activities, but the correct realization of own interest. And the interest of each politician and political group is winning of and staying in power, so they approach any problem from the aspect of effects of possible measures and actions on their (party) political rating. For the party which is in power it is a difficult decision to start a decisive fight against corruption if that would bring it negative overall effects. It is possible, for example, for this fight to bring to the ruling party costs in relation to its own members and civil servants and, even more importantly, to part of the business community, without special positive effects on the party rating. The latter is a common occurrence in a society in which voters do not set great store by combating corruption, probably based on the feeling that it is not a very important phenomenon or on the basis of assessment that it is an incurable disease.

Another important element is worth mentioning: there are situations in which both the government and the opposition can only pretend to be committed to combating corruption. For the opposition that is quite clear, as it does not really have to demonstrate anything, but only to

advocate a certain nice strategy and claim that it would implement it if it came into power. However, the ruling party can simulate fighting corruption if large-scale corruption is predominant in the country, so the electorate is unable to assess on the basis of their own experience what the situation is like in the country regarding corruption and what all its consequences are. In other words, citizens observe small-scale corruption more easily at lower government levels, since they and those around them encounter it, whereas the instances of large-scale corruption often remain illusive, which is why they do not pay particular attention to it.

What is it like in Serbia? Here the government is mostly composed, at least according to anecdotal evidence, of different individuals and groups. There are honorable people honestly advocating the fight against corruption, but there are also those who, as heads of interest syndicates, use for themselves and their people opportunities that arise. That is how it was during the Đinđić's and Živković's government, and that is how it was during the first Kostunica's government. Such a constellation implies a combination of feigned and real fight against corruption, probably with the slowing down of the latter and the calculation of moves to be undertaken in order to increase general benefits, but with the minimization of damage for the parties and associates. We are obviously not claiming here that corruption presents the base of the government policy and that prime ministers were involved in it, but only that corruption had an impact on certain moves of the government, or a lack of certain moves, and that there are people in the Government who are not unacquainted with it.

The opposition Serbian Radical Party, on the other hand, uses accusations of corruption of the ruling parties as its main domestic-policy weapon. Its arguments are usually unconvincing, but they strike a responsive cord in certain population strata and contribute to the significant popularity of this party.

More importantly, we believe that it is obvious that a serious fight against corruption in Serbia (and further) depends on the highest political decision, i.e. that the regular government bodies, such as the police and prosecutor's office, do not always conduct it as part of their regular work, but rather as frequent extraordinary campaigns when they get instructions from the highest political level. This is best demonstrated by a series of arrests of various groups during the spring of 2007 (all the so-called mafias). Namely, in all of these previous 5-6 years there was no similar campaign and now many are concentrated in a short period of several months. Since the current Minister of the Interior has been holding that position for over three years, it is clear that this series of arrests does not present a consequence of a replacement of an inactive minister with an active one. Something has obviously changed in political circumstances – in the meantime elections were held and the composition of the ruling coalition partially changed – removing previously existing political barriers or providing impetus to the fight against corruption.

If, therefore, the enforcement system in Serbia (still) does not work by itself, exclusively by the book and without impetus from the high political circles, then for successful fight against corruption the existence of political will for combating corruption in the ruling circles is of the greatest importance.

Political will in the government should not be exclusively directed towards individual actions or campaigns, but even more towards the construction of stable, compliant institutions as higher and long-lasting barriers to corruption.

CHANGE OF FOCUS

The first question is whether Serbia needs special fight against corruption, with special policies, instructions and actions. Corruption exists in many countries of the world, in fact in all of them, but many of them have not adopted an anti-corruption strategy, set up special institutions or launched special campaigns, nor are they thinking along those lines. It is clear that in the developed countries there is belief that such a special activity is not necessary for them and that it would not bring them benefits. What is that about?

The developed countries rely on regular anti-corruption mechanisms and believe that a special strategy, with major institutional changes, is not necessary. Naturally, in those countries as well there is corruption, sometimes even assuming large proportions, judging by the value of transactions and the political level at which it occurs, but the regular activity of the enforcement and judicial system is also impressive and provides good results. Let us look at the latest example from the US from 2007: Congressman William Jefferson appears to have mediated in transactions between American companies and some African countries, in exchange for commission, but he was followed, a police sting operation was mounted, money was found in his freezer and finally he was taken to the competent court. The government administration did its work as it would do in any other, less attractive case, so the Congressman was not saved by his political position, nor did his party try to save him and conceal his wrongdoing.[1]

Unfortunately, the situation in Serbia cannot be compared with that in the developed countries. Regular institutions operate properly over there, in regular procedure, and manage to keep the level of corruption at a low level, whereas in Serbia the police, judicial and similar bodies all too often wait for a sign from politicians to get involved, which was already dealt with. Apart from that, their abilities are not always at the required level either. It is clear that the building of these institutions in

[1] An interesting aspect of this case is that the voters from Louisiana elected the accused Jefferson congressman *after* the scandal came out, which means that they did not pay much attention to the allegations of his corrupt activities.

Serbia has not been completed yet, i.e. that they require further continuous and thorough improvement both in the direction of independence from politics and of capacity building.

On the other hand, during the past 5-6 years Serbia has, to a large extent, built institutions that did not exist in 2000 and adopted modern anti-corruption legislation. In other words, Serbia is not at the beginning of the anti-corruption road; instead, it has gone quite far down that road. Therefore, the strategy that was suitable for 2001 no longer fits the current circumstances and it is certainly necessary to move the focus of action from those first anti-corruption steps to the following, i.e. it is necessary to move from the earlier to later stages.

Let us take a closer look of the changes introduced. Economic legislation has been changed to a large extent in comparison with the system in force in the 1990s. Foreign trade and foreign exchange legislation has been liberalized, prices and payment operations have been liberalized, the sale of foreign currency and oil-derived products has been legalized, the tax system has been improved significantly, etc. Numerous restrictions have thus been abolished, i.e. licenses which enabled civil servants and their bosses to engage in corrupt practices. The area on which government factors decide has in such a way been significantly reduced, thereby reducing corruption as well.

Then, legislation has been adopted in different areas, which should make corruption more difficult or facilitate the fight against it. As said previously, the laws on conflict of interest, party financing, public procurement, civil servants, state auditing institution, ombudsman have been adopted, then the anti-corruption strategy and its action plan have been adopted, the criminal code has been amended. This has basically created a legal basis for wide anti-corruption activity.

Finally, numerous institutions in the area of fight against corruption have been established: Organized Crime Directorate (UPBOK), Public Procurement Agency, Conflict of Interest Prevention Board, Ombudsman, Anti-Money Laundering Agency, etc. Internal control departments have been reinforced in many government institutions. Among the planned institutions, the establishment of the Anti-Corruption Agency and State Auditing Institution is under preparation.

Some individual, but important measures have been introduced and should reduce corruption. In the past years civil servants' wages have been increased, in particular in local authorities and for top civil servants in republic ministries (e.g. assistant ministers and department heads),[2] which to a certain extent reduces their motivation to engage in illicit activities. Furthermore, the transparency of government authorities' operation has been expanded significantly, both through the submission of statutory interim reports on their operation and through

[2] Interestingly, assistant ministers in the Government of Serbia now (June 2007) have higher salaries than the ministers themselves.

much more frequent communication of the leading government and local officials with the media.

Thus, the fight against corruption in Serbia has completed the initial stages and moved on to the next stages. Those first stages were essentially characterized by the reform of legislation, both economic and the one dealing directly with corruption and related phenomena and organization of necessary institutions. This part of work has mostly been completed, although this assessment does not mean that everything is done and done in the best manner. There is a need for significant improvement of some areas of economic legislation that stimulate corruption. For example, in construction (obtaining a construction permit) procedures should be greatly simplified, thus eliminating a hotbed of corruption at the local level. The financial system is overregulated, which was probably necessary in the first years of transition, while the system was unstable and immature, but now it should be gradually liberalized, eliminating the risk of corruption related to operating licenses of banks, insurance companies, etc.

It is also necessary to complete institution building, specifically in two directions. The first is the founding of the missing, but planned institutions, such as the state auditing institution and the Anti-corruption Agency.

The statutory deadline for the formation of the State Auditing Institution (SAI) expired in May 2006 and it has not been established yet. One of the causes was the modest wage of the head of the institution in comparison with the wages in the private sector, which was later rectified. The process of nomination of the SAI Council members is under way, so it is to be hoped that the foundation and initiation of operations will be successfully completed by the end of 2007 or the beginning of 2008.

The Anti-corruption Agency is provided for by the Anti-corruption Strategy and a draft law on its foundation, competences and procedures already exists. Such agencies earned international fame after the successful example from Hong Kong, but that success was rarely repeated elsewhere. Namely, the basic question relates to the agency's character, i.e. whether its competencies include the investigative function. The agency from Hong Kong did have such a function, which is why it achieved good results, whereas in other countries agencies have no investigative competences, so success has eluded them. The Serbian draft law on the agency does not provide for those investigative competences, but only those that relate to coordination, initiative, opinion, supervision, etc. Therefore, the question is whether such an agency is necessary and whether another expensive administrative body would be created[3], not yielding the necessary results. With this we are not advocating the foundation of an agency with investigative competences,

[3] The Agency is to employ 150 staff.

but raising the issue whether there is any need for such an agency as is provided by the draft law.

Behind the question whether such an agency should be formed lies another more important question, namely whether in the fight against corruption we should rely on regular institutions whose task is a general fight against crime, including corruption, or rely to a greater extent on specialized anti-corruption bodies. It is our opinion that the first option is better, for at least three reasons:

- the first is the belief that regular bodies, such as the police, prosecutor's office and courts, have greater chances of successfully combating corruption because of much larger resources, larger competences and longer crime-fighting tradition,
- the second is the belief that the abuse of smaller, specialized organizations is more likely than of large, regular ones, with the abuse referring both to the retarding of its operation, as well as to active abuse in the sense of facilitating corruption for the benefit of those with influence over them,
- the third is the fact that specialized anti-corruption institutions have not proved themselves so far, i.e. they have not given any visible contribution to the reduction of corruption in Serbia.

Recommendation in favor of regular bodies does not imply a suggestion that the existing bodies should be abolished, but only a proposal to set up such a configuration of competences in which the classic bodies will play the lead part, while the specialized bodies will participate in the fight against corruption within their specific competencies.

The second direction of activities is the improvement of operation of the existing institutions, since their operation is frequently unsatisfactory. This refers to all three basic law enforcement segments: the police, prosecutor's office and the judiciary. The first and the second still excessively rely on political instructions in anti-corruption activities, instead of performing their regular conscientiously. The third is fairly protected from reforms winds by the judiciary's independence, so a sufficient change in the judge composition was not possible during the past years. However, none of them is irreparably infected by the corruption virus, despite the fact that small-scale corruption is fairly common, with large-scale, political corruption appearing as well. Therefore, there is real chance of putting those three institutions on more solid foundations, in particular since we believe that in the top government there is inclination towards such steps.

Certainly, raising the operation of the institutions in charge of fighting crime to a higher level is not the only direction of administration improvement in Serbia. Other institutions, i.e. ministries, agencies, etc. should be significantly improved both because of the fight against corruption, and because of the reasons of general efficiency and raising the quality of services provided to users. Still, priority in the fight against corruption should be given to those institutions that directly deal with it.

GROUPS OF MEASURES

Let us briefly review some measures we consider important in the implementation of the stated change of focus in combating corruption.[4] It is worth mentioning before that in all three institutions (the police, public prosecutor's office and the judiciary) it is necessary to introduce measures that should (a) reduce corruption in the institution itself and (b) increase efficiency of the given institution in combating corruption in other segments of the society.

Regarding the judiciary, the major groups of measures would be the following. First, the setting of valid criteria for the election of judges and their consistent implementation accompanied by maximum publicity, since the election of judges became additionally important because of the failure to change the existing composition of judges at least partially through a form of lustration or removing weak and corrupt judges.

Second, it is necessary to expand significantly the insight of both the professional and ordinary public into the work of courts, in several ways: by widening the publicity of procedural activities (e.g. when deciding on interlocutory relief); preparing valid judicial statistics, since the existing are disastrous; publicizing decisions, together with explanations, so that anyone can monitor the work not only of courts, but also of individual judges; enabling the monitoring of procedural activities over the internet and similar. Increased transparency would increase the probability of identification of unusual decisions and cause certain judges to refrain from corruption.

Third, it is necessary to ensure regular submission of reports by all participants in the judiciary (judges and prosecutors), in order to perform mandatory analyses of the work of individuals and institutions, with mandatory periodic assessment of individuals. This measure, as many others, is primarily aimed at increasing the efficiency of operation, but is also very useful in combating corruption.

Fourth, implementation of classic anti-corruption measures: involvement of judges in the conflict-of-interest prevention program; provision of adequate wages and working conditions; subjecting judges and prosecutors to disciplinary proceedings etc.

Fifth, participants from the judiciary need to have continuous training, not only in the area of legislative changes, but also case management, ethical standards, corruption technologies and similar.

Sixth, it is necessary to put in place an operational protection program for witnesses who are willing to testify in court on corruption, as well as provide protection from revenge to the staff who report corruption in their institution.

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4 See *Corruption in the judiciary,* CLDS, Belgrade, 2004; *Evaluation Report of the Republic of Serbia*, GRECO, Strasbourg, 23 June 2006

Regarding the prosecutor's office, it is necessary to improve significantly its operation, as it is today, due to the lack of autonomy in its operation, essentially part of the government administration. Therefore, the election of prosecutors should be subject to clear criteria and made public, in order to increase or even gain confidence of the citizens in prosecutors and their work. Moreover, the fluctuation of prosecutors and their deputies should be decreased by performance-related compensation and their term of office extended, so that it would not be easy to change the prosecutorial staff in the course of political changes. Then, the role of the prosecutor's office in the pretrial, investigative proceedings should be increased, including the formal change of competence and the prosecutor's office trained for that. Finally, a special anti-corruption department should be established within the prosecutor's offices.

Regarding the police, several groups of measures will be mentioned. The first refers to the strengthening of the anti-corruption police segment. This can be achieved easily by increasing the number of the police engaged in anti-corruption activities and their permanent professional and ethical training, as well as by strengthening material resources at the disposal of this police segment.

The second group of measures refers to the impact on policemen's motivation, both by incentivizing positive motivation and by disincentivizing negative motivation. Among positive incentives there are wage increases and occasional performance-related bonuses, but also promotions based merit rather than political criteria or nepotism. More generally, this service, as well as the entire government administration, should be based on the principle of merit in service as the basis for promotion, compensation and reputation building at work and outside it, and thus for good operation as well.

On the side of negative incentives the basic measures certainly involve the strengthening of internal control in the police and external supervision over the police, in order to increase the probability of discovery of corrupt acts performed by policemen. Apart from that, it is necessary finally to do away with the remnants of belief among the policemen that a mate should be protected even if he has done something wrong, for example participated in small-scale (or even large-scale) corruption (for example, extortion against street vendors etc.). That spirit of unity of people in the service should have its direction changed: from uncritical support even when someone is guilty ("I am protecting him because he will also protect me tomorrow") to the protection of the citizens and law ("I am removing rotten apples from the service; we are not criminals").

An important element of the concept is the idea of police depoliticization, which is extremely desirable, but not easily achievable, because it mostly depends on the highest police ranks, which is precisely the one politicizing subordinate police structures. The goal is depoliticized, professional police, resting on the mechanism of merit at work as the basis of position and promotion of the policemen. The Serbian police will certainly move towards that goal as well, because

of the public pressure and maturing of the political scene. The question is only at what speed.

Apart from these measures directed at the strengthening of regular anti-corruption mechanisms, it is necessary and beneficial to undertake measures from the standard anti-corruption arsenal.

Expansion of transparency, i.e. making the operation of all government bodies and individuals as transparent and public as possible, through the presence of the media, publication of reports on the operation of government and other bodies and similar;

Expansion of accountability, i.e. ensuring accountability and responsibility of everyone in the government administration, from the governments and ministers and other government bodies, parties and political leaders, to each civil servant;

Further reduction of discretionary decision-making, i.e. continuing deregulation of economic and other regulations, wherever possible, in order to reduce the discretionary rights of individuals from the government administration and narrow down the field of corruption;

Continued government administration reform, i.e. improvement of work process and procedures, change of part of the personnel, dissemination of ethical standards, permanent education and similar;

Further support to investigative activity, i.e. encouraging permanent investigative and professional work on corruption-related issues, seminars, conferences, publications and similar; special role of empirical determination of progress in the fight against corruption through periodic public opinion surveys and other methodologies.

Further raising of awareness on the detrimental effects of corruption both among the population and politicians, through regular media activities and special campaigns, through the support to organizations seriously dealing with the research of corruption phenomenon, through field activities and promotional material and similar.